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ABSTRACT

In response to numerous complaints from Navajo leaders, the New Mexico Advisory Committee undertook this study of the complex social and economic relationships that bind the city of Farmington and the Navajo Reservation. This report examines issues relating to community attitudes; the administration of justice; provisions of health and medical services; alcohol abuse and alcoholism; employment; and economic development on the Navajo Reservation and its real and potential impact on the city of Farmington and San Juan County. From testimony of participants during a three-day open meeting in Farmington and from extensive field investigation, the Advisory Committee has concluded that Native Americans in almost every area suffer from injustice and maltreatment. Recommendations are addressed to local, county, State, and Federal agencies. They include: establishing a human relations committee in Farmington; developing a comprehensive alcohol abuse and alcoholism program; coordination between public and private health facilities to provide adequate services to Navajos; upgrading the community relations program of the Farmington Police Department; affirmative action by private and public employers; and compliance with the "Indian Preference" clause by private employers on the reservations. (Author/JM)

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THE FARMINGTON REPORT: A CONFLICT OF CULTURES

UD 016635

—A report of the New Mexico Advisory Committee to the United States Commission on Civil Rights prepared for the information and consideration of the Commission. This report will be considered by the Commission, and the Commission will make public its reaction. In the meantime, the findings and recommendations in this report should not be attributed to the Commission, but only to the New Mexico Advisory Committee.

July 1975

DEC 17 1976

THE FARMINGTON REPORT:
A Conflict of Cultures

A report prepared by the New Mexico Advisory Committee to the U.S. Commission on Civil Rights

ATTRIBUTION:

The findings and recommendations contained in this report are those of the New Mexico Advisory Committee to the United States Commission on Civil Rights and, as such, are not attributable to the Commission.

This report has been prepared by the State Advisory Committee for submission to the Commission, and will be considered by the Commission in formulating its recommendations to the President and the Congress.

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NEW MEXICO ADVISORY COMMITTEE TO THE
U.S. COMMISSION ON CIVIL RIGHTS
July 1975

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Sirs and Madam:

The New Mexico Advisory Committee, pursuant to its responsibility to advise the Commission concerning civil rights problems in this State, submits this report on the relationship between the Navajo people and the Anglo residents of the city of Farmington and the county of San Juan, New Mexico.

In response to numerous complaints from Navajo leaders, the Advisory Committee undertook this study of the complex social and economic relationships that bind the city of Farmington and the Navajo Reservation.

This report examines issues relating to community attitudes; the administration of justice; provisions of health and medical services; alcohol abuse and alcoholism; employment; and economic development on the Navajo Reservation and its real and potential impact on the city of Farmington and San Juan County. From testimony of participants during a 3-day open meeting in Farmington and from extensive field investigation, the Advisory Committee has concluded that Native Americans in almost every area suffer from injustice and maltreatment.

We are urging that local and county officials in Farmington and San Juan County, in conjunction with Navajo leaders, take steps to initiate concrete action to improve the treatment of Navajos living in the border areas of northwestern New Mexico.

Recommendations are addressed to local, county, State, and Federal agencies. They include: establishing a human relations committee in Farmington; developing a comprehensive alcohol abuse and alcoholism program; coordination between public and private health facilities to provide adequate services to Navajos; upgrading the community relations

program of the Farmington Police Department; affirmative action by private and public employers; and compliance with the "Indian Preference" clause by private employers on the reservation. We are also recommending that further study on the potential social and economic ramifications of the proposed coal gasification complexes on the Navajo people be undertaken.

These issues are also addressed in several other Commission reports, and we urge you to advocate the Commission's position concerning these areas.

Respectfully,

/s/

STERLING F. BLACK
Chairperson

ACKNOWLEDGMENTS

The Advisory Committee wishes to thank the staff of the Commission's Southwestern Regional Office for its help in the preparation of this report.

John F. Dulles, II, was the overall field coordinator for the Farmington project, assisted by: Patricia J. Villereal and Roger Vallejo, equal opportunity specialists, no longer with the Commission; Gloria M. Cabrera, regional staff attorney; Ernest J. Gerlach, writer/researcher; and Norma S. Valle, secretary. All worked under the direction of J. Richard Avena, regional director.

Final edit and review was conducted in the Commission's Office of Field Operations, Washington, D.C., by editor Laura Chin, assisted by Audree B. Holton, under the direction of Bonnie Mathews, acting chief editor. Preparation of all State Advisory Committee reports is supervised by Isaiah T. Creswell, Jr., Assistant Staff Director for Field Operations.

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights, created by the Civil Rights Act of 1957, is an independent, bipartisan agency of the executive branch of the Federal Government. By the terms of the Act, as amended, the Commission is charged with the following duties pertaining to denials of the equal protection of the laws based on race, color, sex, religion, or national origin: investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to denials of the equal protection of the law; appraisal of the laws and policies of the United States with respect to denials of equal protection of the law; maintenance of a national clearinghouse for information respecting denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

THE STATE ADVISORY COMMITTEES

An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 as amended. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observers, any open hearing or conference which the Commission may hold within the State.

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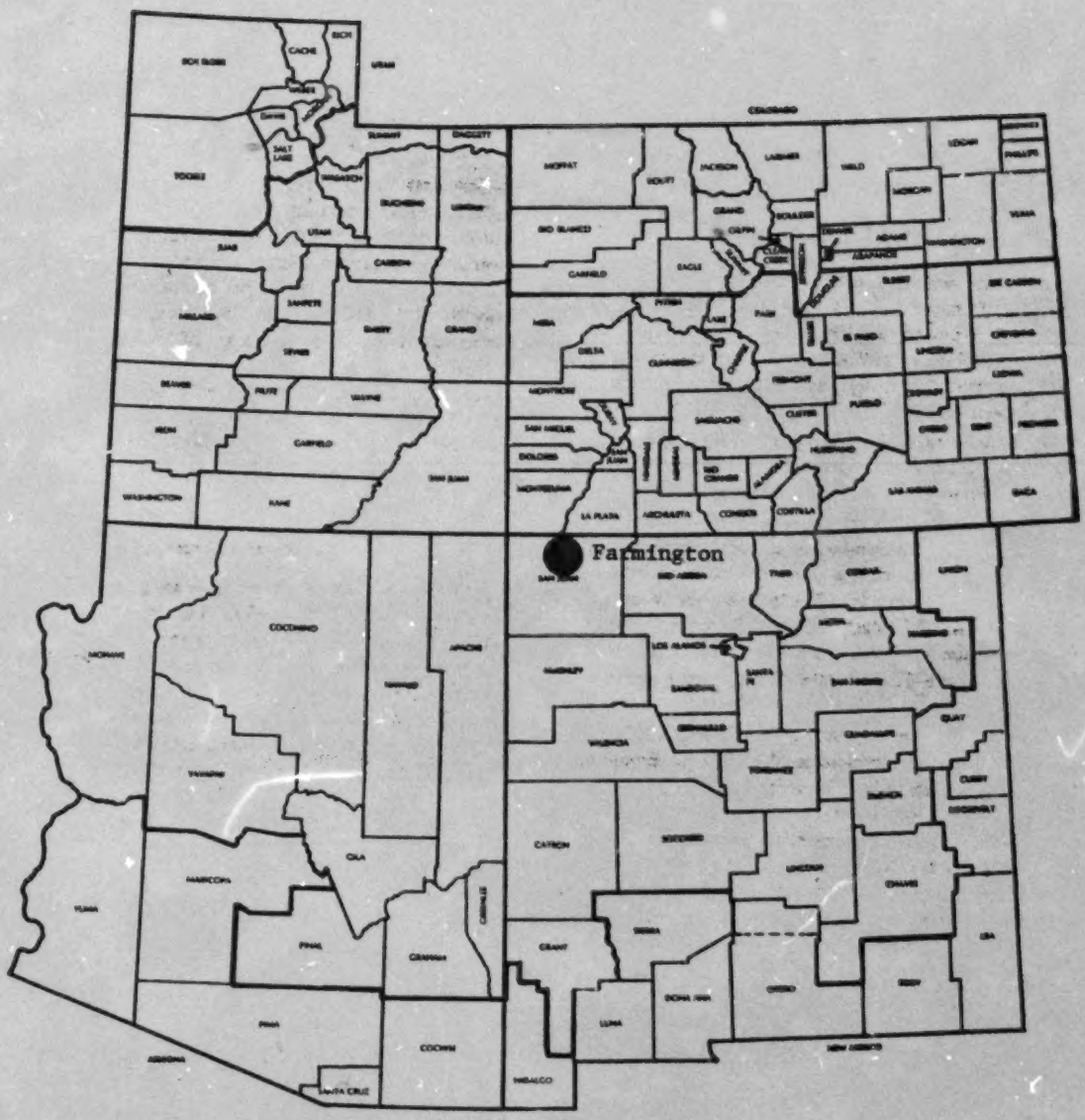
FOUR CORNERS REGION



Figur. 1

Source: U.S., Department of Commerce, Development Plan: Four Corners Regional Commission (February 1972), p. 7.

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SAN JUAN AND McKINLEY COUNTIES:
MAJOR COMMUNITIES IN THE REGION

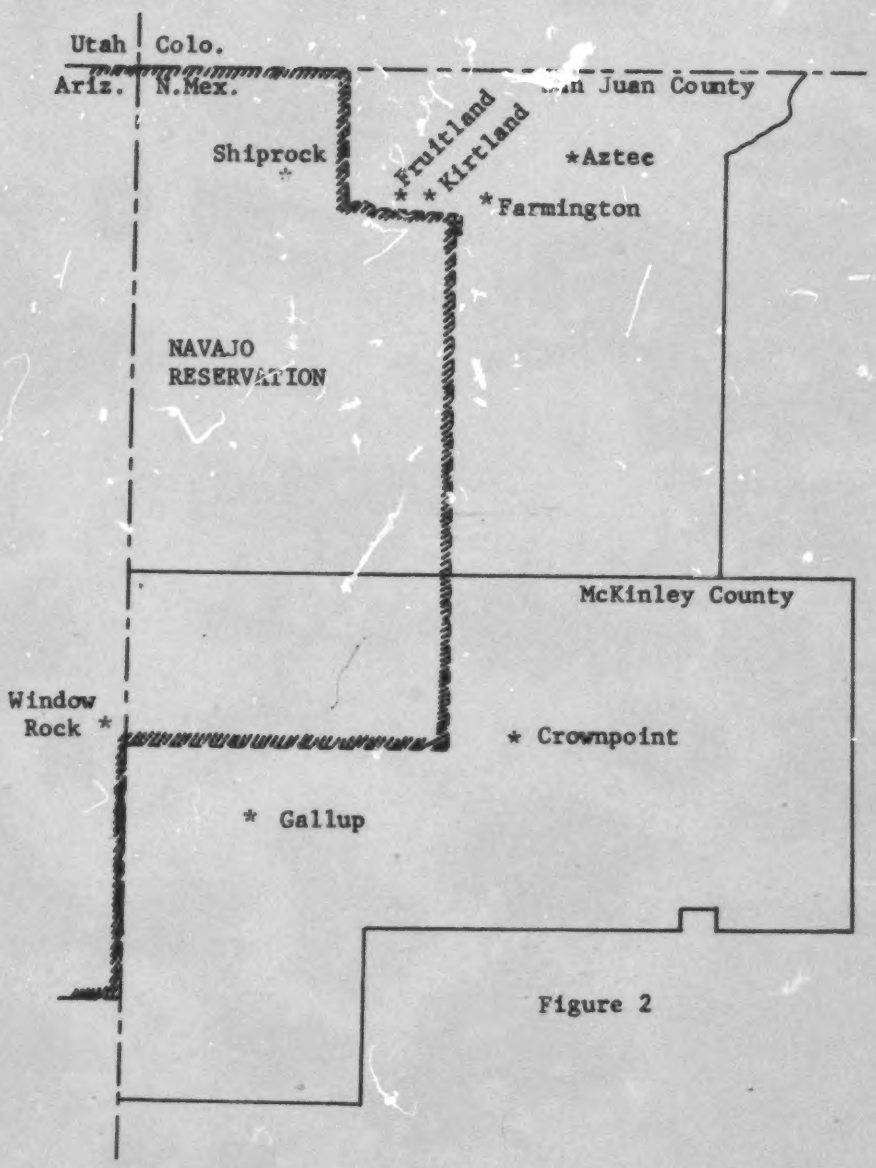

Figure 2

SOURCE: Lattelle Columbus Laboratories, Detailed Environmental Analysis Concerning A Proposed Coal Gasification Plant (February 1973).

PROLOGUE

In April 1974 the bodies of three Navajo men were found in separate locations in the rugged canyon country near Farmington, their bodies severely beaten, tortured, and burned. The brutality of these three crimes provoked immediate and angry outrage from the Navajo community. The tranquility which had seemed a way of life in Farmington was to be abruptly ended. The slayings proved the catalyst for bringing the civil rights movement to Farmington. Much of the Anglo community in Farmington found itself not only ill-prepared to deal with the ensuing crisis, but indeed confused, threatened, and frightened.

The mayor of Farmington, Marlo Webb, wrote to Navajo Chairperson Peter MacDonald:

> *The entire community is shocked by and abhors this violent, brutal, and senseless taking of human life. It is incomprehensible that such an action could take place in this community that prides itself as being ever ready to open its heart and arms to those in need of a helping hand. Farmington and its citizens over the years have enjoyed an especially close relationship and friendship with the members of the Navajo Nation. I pledge to you that we will continue to solicit this close association; recognizing that it must be earned through our demonstrated actions of good faith and concern.*[1]

1. *Navajo Times*, May 9, 1974, p. A-2, reprint of letter from Marlo Webb to Peter MacDonald.

The Chamber of Commerce in Farmington also issued a strongly worded statement expressing "abhorrence and shock" for the crimes and "disgust and horror that those who would perpetrate such senseless murders place so little value on human life."[2]

Three Anglo youths were arrested in Farmington soon after and charged with the murders. All were students at Farmington High School; two were 16 years old, the other 15. Chairperson MacDonald expressed his disbelief:

> *It is hard to believe that teenagers would commit such an act since these killings are apparently without any motive whatsoever. I am glad that in our culture such violence would never occur. We Navajos respect our elders and do not even talk harshly to them, let alone act violently toward them.*[3]

He appointed a special Navajo Civil Rights Commission to investigate "all conditions surrounding the Navajo Nation." The purpose of the commission was to prevent further violence, to hear Navajo grievances, and to present these to appropriate city officials and community leaders.[4]

In response to the slaying of these Navajos, a number of more visible, dramatic, and direct protest activities were planned and conducted by Indian organizations in Farmington and throughout the State. Their basic purpose was to call attention to what these groups felt was a long history of racial discrimination against Indians in the northwestern part of New Mexico and to assure that these grievances would finally be addressed if only as the result of the tragedy which had occurred.

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2. *Navajo Times, May 9, 1974, p. A-2, reprint of resolution passed by officers of the Farmington, New Mexico, Chamber of Commerce meeting in Executive Session on May 1, 1974.*

3. *Navajo Times, May 9, 1974, p. A-3, statement of MacDonald on killing of three Navajos in the Farmington area.*

4. *Navajo Times, May 9, 1974, p. A-3.*

A news conference was held in Albuquerque on April 30, 1974, to launch this protest. Several Indian groups, including the University of New Mexico Kiva Club, the American Indian Movement (AIM), Indians Against Exploitation, and the National Indian Youth Council participated in this effort to publicize alleged widespread racism in the Farmington and Gallup areas and to call for a thorough investigation of the murders. The mood at this press conference was one of bitterness, contempt, and insistence that justice be served.[5]

In Farmington, a similar press conference was called on May 2, 1974, at the local Indian Center by the Farmington Intertribal Indian Organization (FIIO) and the San Juan County Human Rights Committee. A statement was released calling for positive action by community and area leaders to prevent further "harassment, intimidation, cruelty, and violence...toward Indian persons in the Farmington area."[6]

Several significant examples of injustices toward Indians were cited in the press release, reflecting a pattern of severe discrimination. But the major emphasis of the statement was positive, identifying areas requiring community action. Among those areas singled out were law enforcement, education, local government administration, housing, medical and social services, alcoholism, communication, and economic conditions. In each of these there was a request for additional resources, greater sensitivity toward Indians, expanded employment opportunities, and participation by Indians in all aspects of community decisionmaking. The statement concluded with this sentence:

> *This is not a call for vengeance but rather justice, fairness, and a decent life for all.*[7]

At this press conference, a petition was also made that a general open meeting be called to air Indian grievances. The statement was read by Dr. Bahe Billy, the Navajo president of the Farmington Intertribal Indian Organization (FIIO), and supporting remarks were offered by Wilson Skeet, vice-chairperson of the Navajo Tribe; Reverend Billy Cleaver, president of the local NAACP; and John Redhouse of the Kiva Club, among others. Mr. Skeet appealed for non-violence and urged the Navajos to maintain their tradition of patience, saying:

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5. *Americans Before Columbus, May 1974, p. 8, (Published by National Indian Youth Council, Albuquerque, N.M.).*

6. *Farmington Intertribal Indian Organization and San Juan County Human Rights Committee, Press Release, May 2, 1974.*

7. *Ibid.*

> *We are all saddened and outraged by this act, but now is the time when we must work together.*[8]

Mr. Redhouse stated:

> *[If] law enforcement agencies are lacking in bringing individuals to justice, we will take the law into our own hands.*[9]

He also expressed concern about the possible existence of other victims.

He announced that an AIM official would lead a continued search for Navajo bodies in the Farmington area. Because of the tension and unrest which characterized the community, a rumor control center was established by the FIIO.

A large memorial parade was organized and peacefully executed in Farmington on Saturday, May 4, 1974. Approximately 3,000 persons, nearly all Indians, participated in this tribute to the Navajo victims which had been requested by their immediate families. The demonstration also served to illustrate the solidarity and common purpose among the Indian community. The marches included men and women of all ages, as well as numerous children.

The ceremony concluded with a series of speeches in the Navajo language, many of them calling attention to alleged racism and discrimination against Indians in the Farmington community. Harris Arthur, a Navajo Community College instructor, emphasized the need to investigate discrimination which he said was "running rampant in this town." He continued:

> *What happened here today ought to start people thinking about this present attitude that brought about these incidents....I'm not just talking about the murders but the intimidation toward the Navajo.*[10]

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8. *Navajo Times*, May 9, 1974, p. A-3.

9. *Gallup Independent (New Mexico)*, May 3, 1974, p. A-1.

10. *Farmington Daily Times*, May 5, 1974, p. 1.

This demonstration, the first in the city's history, was characterized by closed shops and bars as Indians from all parts of the State marched side by side down the streets of Farmington in a display of support for justice and sympathy for the bereaved families, whose members led the march.

In an effort to demonstrate unity and strength, the various Indian and other sympathetic organizations who were providing leadership within the local Indian community, formed an alliance which they named the Coalition for Navajo Liberation.[11]

On Saturday, May 11, 1974. another march was held in Farmington and again, support from the Indian community was impressive as nearly 2,000 Navajos participated in this orderly and peaceful event. As was the case in the preceding week, only a small number of Anglos joined ranks with the Indian protesters. At the termination point of this second mass protest near city hall, the mayor of Farmington, Marlo Webb, was presented with a list of ten demands by the recently formed Coalition for Navajo Liberation. As was true in the May 2 statement, the petition addressed basic community problems affecting Indians, and called for increased responsiveness by elected officials to these needs.

The following is a summarization of each of the 10 requests presented to the mayor at this May 11 rally:

1) immediate open meetings to air Indian grievances and concerns;

2) a meeting of the mayor and city council with representatives of the Coalition;

3) a request by the city that the U.S. Commission on Civil Rights 'conduct hearings to investigate all charges of discriminatory practices and the exploitation of Indian people in Farmington and San Juan County';

4) the establishment of a minority group consultation committee;

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11. *Its principal membership included the Farmington Intertribal Indian Organization, the American Indian Movement, the NAACP, the University of New Mexico KIVA Club, and the San Juan County Human Rights Committee.*

5) the establishment of a law enforcement review committee with minority representation;

6) attention by the city to specific complaints by its citizens;

7) increased recruitment and training of Navajos for city employment;

8) the placement of the city's Indian Center under the jurisdiction of an Indian committee and Indian director;

9) the establishment of a non-discriminatory alcoholic rehabilitation program; and

10) the creation of a southside community center.

The mayor responded by calling an open meeting on Monday, May 13, 1974, at the County Fairgrounds Auditorium. The purpose, according to the mayor, was to allow the Indians to air their grievances before him and members of the city council. He made it known at the meeting that he was there to listen and not to act. He also made clear his position that many of the Coalition's demands were outside the jurisdiction of the city. In response to the demand for Indian control of the city-operated Indian center, the mayor responded that the facility was built as a place for Indians to visit when they come to Farmington and "now you're asking us to make it into a clubhouse."[12] Regarding a possible community center on the southside of the city, Mayor Webb said he was sympathetic to the request but that even the residents of the city's wealthier northside did not have such a facility.[13]

He then announced that the U.S. Commission on Civil Rights would be in Farmington to look into alleged instances of discrimination. He also told the assembly that he would appoint a factfinding committee to work with a special commission appointed by Chairperson MacDonald to investigate alleged civil rights violations of Navajos. Many Navajo persons took the platform to allege harassment, mistreatment, and discrimination by police, merchants, schools, hospitals, and other area institutions. Local media was also accused of reflecting the racist attitudes of the local non-Indian community. Wilbert

12. *Gallup Independent, May 14, 1974, p. 1.*

13. *Ibid.*

Tsosie, Fred Johnson, Rev. Billy Cleaver, and other Coalition leaders reiterated their demands and insisted upon recognition from city officials. There was a pronounced attitude of frustration and anger on the part of many of the Indians attending this meeting. Fred Johnson told the city council that if some action wasn't taken on the demands within 30 days, "there will be more stringent action taken."14

On May 15, 1974, 3 1/2 months before the New Mexico Advisory Committee's open meeting, a staff member of the U.S. Commission on Civil Rights and members of the Advisory Committee's Indian subcommittee met for almost 6 hours with more than 300 Native Americans at the San Juan Episcopal Mission Church, which rests on a hill overlooking Farmington. The meeting had been called by the Coalition for Navajo Liberation in response to the Commission's desire to hear directly from Indian people regarding their civil rights problems. Participating in the meeting were representatives of the Navajo Tribe, the San Juan Human Rights Committee, Navajo Legal Services (DNA), the Navajo Community College, the NAACP, the FIIO, the Coalition, and a large number of area Navajo residents, men and women, young and old, alike.

During the course of the evening, at least 50 persons came forward to express their feelings and describe specific examples of what they considered to be serious violations of their civil rights. Several persons presented written statements and other kinds of exhibits were also offered. The vast majority of persons spoke in their native Navajo language, emotionally and yet precisely pleading their case for a thorough investigation of the discriminatory practices which they felt had severely impaired their struggle for dignity and equal rights.

Members of the families of the slain Navajo men, seated in the front row of the church hall, expressed their grief, suffering, and concern that justice would not prevail. They pleaded for assistance to assure that their people would no longer be forced to accept a status of subjugation and exploitation. One Navajo man rose to talk about the recent crimes against Indian people, saying that "the killings reflected the white man's inhumanity and contempt for all mankind — no Navajo would so callously disregard the value of human life."15 Navajo students from local junior and senior high schools related several humiliating experiences they had endured, including ridicule, harassment, and exclusion from extracurricular activities. Several who had taken

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14. *Ibid.*

15. *Staff memorandum to Commissioners, May 20, 1974, U. S. Commission on Civil Rights, Washington, D.C.*

American history classes stated that the contributions of the Navajo Nation were not included in the curriculum.

Navajo employees and former employees of local business described what they considered to be disrespectful and demeaning attitudes on the part of their employers and the consequent embarrassment which they had experienced.[16]

Commission staff heard of several cases where Indians had allegedly suffered because the local hospital refused to serve them and insisted on transporting them to the Indian Health Service facility in Shiprock, some 30 miles away.[17]

Also described were a multitude of economic problems confronting Navajos in the region. The Bureau of Indian Affairs estimates that the unemployment rate of Navajos is well above 35 percent and many who are employed earn substandard wages. The city of Farmington was said to employ only few Indians among its nearly 500 employees, and the city was accused of recently turning back to the Federal Government funds appropriated for a Public Service Careers Program. A variety of unscrupulous business practices were also alleged, including inflated prices and interest rates for Indians, overcharging for purchases, withholding of U.S. Treasury checks, and other forms of economic intimidation.[18]

Many of the Navajos present expressed the opinion that alcoholism was the major problem affecting their people. They felt that much of the non-Indian business community was taking advantage of this and was deliberately exploiting it for the purpose of making a profit. They called for a closing of all local "Indian bars."

A litany of complaints regarding the lack of adequate housing, social services, and representation in decisionmaking were also aired.

The increasingly militant Coalition for Navajo Liberation, frustrated by the refusal of the city officials to accord it recognition or heed its demands, announced plans for marches on downtown Farmington every Saturday. Tension rapidly mounted in Farmington as downtown merchants, angered by a substantial decline in weekend trade, insisted that public officials take more strenuous measures to obstruct the Coalition's tactics.

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16. Ibid.

17. Ibid.

18. Ibid.

On Friday, June 7, 1974, a hearing was conducted before District Judge Frank B. Zinn at the county seat in Aztec to determine what action should be brought against the three white youths accused of the Navajo triple slayings. Because of a recently enacted State Juvenile Code,[19] the proceedings were not open to the public and Judge Zinn would not permit relatives of the Indian victims, their counsel, or representatives of the news media into the courtroom. However, the results of the hearing were reported: the youths were sentenced to attend the New Mexico Boys School at Springer for an indefinite period, not to exceed their 21st birthdays.[20] The district attorney's motion to bind over two of the three juveniles for adult prosecution had been denied. The outcome of this legal proceeding, coupled with the Judge's refusal to admit the victims' families into the hearing chambers produced an outcry of suspicion, indignation, and disgust in the Navajo community. As expressed later by Peter MacDonald, appearing before the New Mexico Advisory Committee:

> *It is beyond me how the Anglo legal system works, or how justice is rendered. I know that many... Navajo people and perhaps even Anglo people... wonder why it is that three youths who murdered the Navajos...were not even put in jail but were handled with kid gloves and were given a very small sentence to reformatory school. (vol. 2, p. 18)*[21]

The Coalition of Navajo Liberation had requested, and were denied, a parade permit for Saturday, June 8, 1974, on the grounds that a permit had already been granted to the Sheriff's posse for its annual rodeo parade. Coalition leaders joined the throng of spectators "observing this ritual of reverence for traditions of the Old West." Conspicuous among the participants in the parade was a mounted ceremonial unit from Fort Bliss, Texas, dressed in frontier cavalry uniforms, similar to those worn by the Indians' original oppressors. Coalition leaders, insulted by what they considered to be a manifestation of insensitivity, attempted to block the progress of the parade by stepping into the street, and when they refused to move, a melee ensued. Police launched tear gas cannisters and the large crowds of people, Indian and non-Indian alike, fled in panic. The disturbance resulted in 31 Indian arrests, and because of the inability to locate a judge, none of these

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19. *N. Mex. Stats. Ann. ch. 13, § 14 (1) - (45) (1973).*

20. *Albuquerque Tribune, June 8, 1974, p. 4.*

21. *Page numbers in parentheses cited hereafter in text refer to statements made to the New Mexico State Advisory Committee to the U. S. Commission on Civil Rights at its open meeting in Farmington, N. Mex., Aug. 28, 29, and 30, 1974, as recorded in the transcript of that meeting.*

persons were released until Monday, June 10. While formal charges were dropped in a few cases, felony charges were brought against one of the principal leaders in the Coalition for Navajo Liberation, Wilbert Tsosie, and misdemeanor charges were also filed against other Coalition members. Wilbert Tsosie, testifying before the New Mexico Advisory Committee, recalled the significance of the incident and explained the reasons for the Coalition's response:

> *The city was willing to promote racial scorn by allowing a public display of the cavalry unit in the Sheriff's Posse Parade....There is historical documentation; the cavalry was used as an instrument of the United States Government...to subjugate the Navajo Indians. It is through this instrument that the Navajos have been in bondage of white greed, white exploitation, and white racism. The Coalition for Navajo Liberation has successfully shown that we are not to be mocked by...public display of our oppressors. The parade was never completed, fortunately. (vol. 1, p. 6)*

To aggravate the situation even further, a special "Navajo Relations Committee" which had been appointed by the mayor with great fanfare, collapsed on the night of its very first meeting when an Anglo representative objected to what he considered "abusive language" by a Navajo member of the Coalition, sparking a verbal confrontation, some resignations, and eventual dissolution of the committee by Mayor Marlo Webb. The mayor expressed his feeling that:

> *...this was a clear demonstration of the total unwillingness of the Coalition to work with us in a responsible constructive manner.*[22]

Fred Johnson, Coalition leader, maintained that if the white members of the committee had been:

> *...truly interested in coming to grips with the problem of the city, they would not have resigned, regardless of the language...used. Navajos here have faced a lot more than abusive language for a long time.*[23]

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22. Navajo Times, May 27, 1974, p. B-1, Interview with Marlo Webb.

23. Navajo Times, May 27, 1974, p. B-2, Interview with Fred Johnson.

Throughout the tumultuous month of May 1974, there had been a minimum of external involvement in the Farmington crisis, other than the occasional presence of staff from the U.S. Commission on Civil Rights or the New Mexico Human Rights Commission. However, following the June 8 disturbance, Governor Bruce King expressed grave concern at the steadily deteriorating situation and sent his chief personal aide, Frank De Luzio, to Farmington to survey the community climate. As a result of this involvement, the Coalition for Navajo Liberation was able to develop a constructive relationship with State officials and agencies and this served to provide some needed formal recognition. It also resulted in a series of meetings between Indian people and State agency heads to discuss issues of concern.

The interest of the Governor of New Mexico in heeding and acting upon Coalition concerns affecting State agencies proved to be one very substantial gain realized by the Coalition during this period of conflict and strife. Another important victory for the Coalition came as a result of legal action instigated by the city of Farmington to deny the granting of additional parade permits. The city obtained a State court injunction against the parades. The Coalition took the issue before a Federal District Judge in Albuquerque who upheld their right to conduct peaceful protest marches. Coalition leader Fred Johnson hailed the decision as "one of the few major victories" gained by the Indian people in Farmington.[24] He also promised that the marches would be peaceful:

> *We are a peaceful people and we are very sincere in our grievances. We will be marching for our rights.*[25]

Legal maneuvering continued, however, with the city again seeking in State court to enjoin further Indian demonstrations. Eventually, an out-of-court settlement was reached between Coalition and city attorneys which permitted continued parades but established stricter guidelines regarding routes, times, and other procedural aspects.[26]

The Navajo Civil Rights Commission, meanwhile, scheduled several hearings during the summer to listen to Navajo complaints in Farmington. Following one of its hearings, the commission members went to a Farmington restaurant and after being totally ignored, finally got up and left.[27] They protested to the city council about this apparent

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24. *Sun News (Las Cruces, N. Mex.), June 30, 1974, p. 2.*

25. *Ibid.*

26. *Albuquerque Journal, Aug. 2, 1974, p. A-2.*

27. *Navajo Times, June 20, 1974, p. A-7.*

example of discrimination and the city officials offered an apology.

The Coalition for Navajo Liberation reissued its request that the U.S. Commission on Civil Rights hold public hearings in Farmington, and in a rally and press conference held in Albuquerque on Saturday, August 1, 1974, the National Indian Youth Council and the Coalition insisted that in the absence of hearings, the groups would "issue a national call for continuous demonstrations in Farmington each day of the month."[28]

In response to the crisis in Farmington, a 3-day open meeting was convened by the New Mexico Advisory Committee to the U.S. Commission on Civil Rights in late August at the San Juan County Fairgrounds to hear testimony concerning civil rights issues affecting Native Americans in the Farmington area. More than 85 individuals, representing a broad cross-section of the Indian and non-Indian community met with the New Mexico Advisory Committee and provided information on several critical issues, including the administration of justice, economic development, employment, health services, and community attitudes.

Among those participating in the open meeting were municipal, county, and tribal officials; law enforcement and judicial authorities; economic, health, and social service specialists; and representatives of community groups, including the Coalition for Navajo Liberation. A significant portion of the agenda was devoted to unscheduled witnesses, thereby allowing maximum opportunity for participation by all segments of the community.

Upon completion of the exhausting but productive 3-day session, the Chairperson of the New Mexico Advisory Committee, Sterling Black, expressed his appreciation for the excellent cooperation afforded the Advisory Committee by everyone involved and sounded a note of hope for the future:

> *I know we haven't wiped out this disagreement, but we have certainly heard from a lot of people; we have...heard a lot of ideas on possible solutions and resolutions of problems. We have had a situation where all sides have been willing to sit in this room and listen to each other and to open up communications....*

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28. Albuquerque Journal, Aug. 2, 1974, p. A-2.

I think the time has come that all of you, wherever possible, can and should try to lay down the sword, lay down the strong language, and try to see if you can get together with each other to solve some of these problems to the mutual advantage of all people in the area. (vol. 3, p. 306)

FARMINGTON, NEW MEXICO: A STUDY IN ATTITUDES

Farmington does not have a defined sense of culture, history, and tradition. It is a new city and nearly all of its residents have recently relocated there. Many have come from construction and oil field projects in Texas and Oklahoma. Many are unfamiliar with the new land, especially with their new neighbors, the Navajo people. Mayor Webb explained:

> *Let's remember that Farmington is a fairly new city which has experienced tremendous growth in the past two decades. Nearly everyone in Farmington is originally from some place else. They have brought together many past attitudes and maybe even some prejudices. (vol. 2, p. 18)*

In an interview with the Navajo Times, the mayor further expressed his understanding of this unique problem:

> *Many of our new residents have come from other areas of the country where they had no knowledge of Indian culture or history and where they had never met an Indian.*[29]

The Native American, unlike the white man, is not a stranger to this area. Indeed, the Navajo considers this land to be sacred. This concept was vividly described in a resolution presented at the open meeting by members of the Navajo Tribe against the coal gasification

29. *Navajo Times, June 27, 1974, p. B-3.*

projects:

> *The land is our mother, we are from her, and of her, and as Navajos, we cannot condone destruction by outside forces. (vol. 2, p. 178)*

Thus, while the Navajo feels a bondage to the land, the Anglo comes to this area as a stranger. Ken Rustad, director of the San Juan County Economic Opportunity Council, elaborated upon this phenomenon:

> *Farmington was a small town not too long ago. The established leadership is generally...old line...but the bulk of the population is somewhat transient....They really don't feel that strongly that Farmington is their home or will be their future home....People tend to say 'Let's keep things under control while we are here'....They are just passing through in that sense. (vol. 3, p. 101)*

It was perhaps inevitable that someday the presence of conflicting races, cultures, and value systems would lead to violence and confrontation. Possibly the desire of the traditional and pastoral Navajo in this area to live simply and in harmony with the land had prevented an earlier challenge to the existing inequities between Indians and whites in San Juan County.

But for many years, Farmington escaped this moment of reality. Indeed, relations between Navajos and Anglos were frequently described to Commission representatives by local Anglo residents as warm and cordial. Perhaps the prevailing attitude in Farmington toward Indians was best characterized by Richard Hughes, attorney for DNA-Navajo Legal Services, Inc., in Shiprock,[30] who compared it with similar attitudes toward blacks in the South:

> *...those good relationships...which existed between whites and blacks in the South...the warmth that comes from dealing with someone you feel secure in knowing is your inferior. (vol. 3, p. 135)*

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30. DNA is the abbreviation for "Dinebeiina Nahiilna Be Agaditache" which is Navajo for "attorneys who contribute to the economic revitalization of the people." DNA is a nonprofit organization funded in part by the Navajo Tribe and Office of Economic Opportunity, and by private sources, with offices in Window Rock, Ariz., and Shiprock, N. Mex.

But this attitude of paternalistic good will was tempered by substantial criticism and even hostility at alleged inequities favoring Indian people. Time and again, Commission staff during field investigations were advised of the "benefits" enjoyed by Navajos such as free health care, tax exemptions, welfare, and other forms of public assistance. A local store clerk, when questioned by a reporter about the discriminatory practices, exclaimed:

> *...their money spends like anybody elses. I should say our money. We have to keep them.... It is our money they are spending. (vol. 3, p. 170)*

A restaurant waitress responded in a similar manner:

> *Give the Indians the money and if they come to Farmington, they spend it. They spend it like I spend money...Only I earn my money...I get out and work for my money. (vol. 3, p. 171)*

A former city official suggested in an interview with Commission staff that all welfare to Indians should probably be cut off immediately. Such drastic action, he explained, would force Navajos to become responsible for their own well-being.[31]

These accusations are deeply resented by Indian leaders. John Redhouse, in his testimony before the Advisory Committee, asserted:

> *It is fallacious thinking to assume that Indian people in San Juan County are receiving free government hand-outs....They are just returning some of the money we gave to them to support their tax bases....The resources that are being exploited on the reservation are...the property of the Navajo people....The income that is derived from the exploitation of these resources should be spent to provide adequate services to the Navajo people. (vol. 1, p. 28)*

Largely as a result of reservation energy resources, San Juan County is the second most affluent county in the State of New Mexico. Its income, based on assessed valuation of land and structures thereon,

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31. Commission staff interview in Farmington, N. Mex., Aug. 7, 1974.

will at least double upon the completion of planned coal gasification plants. Its tax base even now is heavily dependent upon industrialization which has occurred on the reservation.[32]

Peter MacDonald, chairperson of the Navajo Tribe, described his perception of relations between Indians and Anglos in this area by saying that the Navajos have suffered injustices ever since the first Anglo set foot on this land. The relationship between Navajos and Anglos, he added, has always been untenable, characterized by the Anglo need to dominate. (vol. 2, p. 256)

Probably the most blatant and abhorrent crimes perpetrated upon Indian people in border towns are based on this perception:

> *Nearly everyone in town had heard the stories about how the kids in Farmington High considered the skidrow Navajo drunks on the southside to be fair game and a quick source of pocket cash. The gentle Indians, usually sleeping away on a wine hangover and dreaming of the next one, nearly always would give up their pocket change, such as it was, without so much as a whimper.*[33]

Byron Caton, assistant district attorney for San Juan County, told the Advisory Committee that the practice of "desecrating the integrity of an individual by rolling and robbing an intoxicated person" (vol. 1, p. 225) is a common occurrence in Farmington:

> *I think there is an attitude held by some individuals...that is conducive to treating Navajos and intoxicated persons not like people but like things. (vol. 1, p. 225)*

Coalition leader John Redhouse, who graduated from Farmington High School several years ago, believes that the Navajo murders committed by the three Anglo students, were a direct result of this type of abusive behavior:

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32. Bob Bacon, county manager, interview in Aztec, N. Mex., July 10, 1974.

33. Wesley Perdon, "Triple Murder Brings an Echo of '60's Strife", National Observer, June 8, 1974, p. 4.

> *We didn't see the murders as the act of three crazy kids. We saw it as a part of a whole racist picture. For years it has been almost a sport, a sort of sick, perverted tradition among Anglo youth of Farmington High School, to go into the Indian section of town and physically assault and rob elderly and sometimes intoxicated Navajo men and women of whatever possessions they had, for no apparent reason, other than that they were Indians.34*

One witness before the Advisory Committee, a free lance reporter from Chicago, reconstructed the exchange she had with a 19-year old Farmington youth outside a local root beer parlor in July 1974. He was describing his involvement in a "rolling" episode:

> *Youth: I put one Indian in the hospital under critical....He was in there for about several months....We...was going to roll him, you know. We all had a case of beer and I reached over and yelled 'there is a big old crowd of Indians' and there is about seven or eight of us. You could call it a gang, I guess. Like I went over there and saw this Indian's wallet hanging out, and I grabbed the wallet. He turned around and started bitching, and shit, I plowed into him, hit him over the face and my buddy started jumping up and down on him and before we knew it, we had ended up fighting with seven or eight of them. I don't know. It seemed to work out on our side.*
>
> *Reporter: Were any whites put in the hospital?*
>
> *Youth: No.*
>
> *Reporter: Any Indians?*
>
> *Youth: Just one, under critical condition. They couldn't remember his face. They had to wait several months to figure out who he was.*

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34. *Akwasasne Notes* (Published by Mohawk Nation, Rooseveltown, N.Y.), late Spring 1974 issue, p. 20. Interview with John Redhouse.

Reporter: Do you dislike Navajos?

Youth: I don't like a hell of a lot of Navajos.... They always walk around with a chip on their shoulders.

Reporter: Maybe that is because they get rolled.

Youth: Well, I guess it is easy money for a lot of people who just want to get welfare checks, you know. They see a Navajo and if they can roll him and get away with it, it is easy money. That is what I was thinking about.[35]

The victims of these crimes are often victims as well of a disease considered by many Navajos to represent the worst enemy of their people: alcoholism. "First we want to remove the scourge of the white man's alcohol that is destroying the spiritual and physical strength of our people," declared Coalition leader Fred Johnson in discussing the organization's priorities.[36] Acting as a private citizen, Mr. Johnson filed a lawsuit in district court in June 1974 seeking to have six bars in the Farmington area closed as public nuisances. He explained his action:

These bars encourage and make possible drunkenness. Drunkenness that causes scores of deaths in injuries each year....These six bars rely almost exclusively on Navajo business....They are clearly and definitely public nuisances. But we are also appealing to the moral sense of these bar owners, asking that they recognize the misery they are promoting and profiting from.[37]

Mayor Webb, referring to newly arrived Anglo residents of Farmington, asserted:

When they see Navajos lying drunk on the streets, they make the generalization that all Navajos are drunks. Long time residents of Farmington know that this is a false stereotype.[38]

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35. *Farmington Transcript, vol. 3, pp. 172-174, from interview transcripts of Jeana Rogalska reconstructed at open meeting for New Mexico Advisory Committee.*

36. *Navajo Times, June 27, 1974, p. B-2.*

37. *Ibid., p. B-2. See also Johnson v. Taylor et al., Civil No. 74-452 (D.N. Mex., filed June 14, 1974).*

38. *Ibid., p. B-3.*

Despite this, a local city councilman who is not a new resident, declared in an interview with a news reporter his belief that most of the Navajos in Farmington were indeed alcoholics. And several prominent white citizens stated the opinion that the city and bar owners should not be blamed, because the decision to drink intoxicating beverages is a personal one and the alcoholic should, therefore, be held accountable for his own actions.[39]

Judge Frank B. Zinn, attesting through personal experience to the magnitude, pervasiveness, and complexity of this disease affecting so many Navajos, forcefully pleaded for a humanitarian approach:

> *I don't blame these people. You can't blame people for the problems; it is the times and society...with the prohibition against drinking or taking liquor on the reservation, well, they are going to do the drinking in town.... They are entitled to be protected. I don't care what the cost....If you have a health problem, you should deal with it on that basis....It is a community responsibility. (vol. 3, pp. 82-83)*

The Navajo murders near Farmington in April 1974 awakened a new spirit of activism among many Navajos which demanded a reexamination of existing relationships between the Indian and non-Indian community. Throughout the long turbulent summer, the city found itself becoming more polarized and less able to deal with the increasing hostility, racial tension, and unrest. The Coalition for Navajo Liberation became more strident, more insistent, in its demands. While its tactics were not always condoned, even by some Navajos, they were designed to keep alive the new and fragile civil rights movement in Farmington by dramatizing issues through public demonstrations and other forms of highly visible activity. The organization distributed a steady supply of public statements, many directed at the Navajo people:

> *Give the sick, disgusting alcohol back to the Honkies. Let him kill himself with it![40]*
>
> *Do not spend your hard-earned money in Farmington, the racist city of the racist white man![41]*

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39. From interview transcripts of Jeana Rogalska provided to Commission staff, July 1974.

40. Handouts provided to U. S. Commission on Civil Rights by Coalition for Navajo Liberation, Summer 1974.

41. Ibid.

> *This is the beginning of the awakening of the Redman's soul!*[42]

And Farmington did, in fact, become a national news media dateline. In journals such as Time Magazine, the National Observer, and the Washington Post articles were published concerning the murders, the new Indian militancy, and the response of the local non-Indian community. The editors of New Mexico's largest daily newspaper, the Albuquerque Journal, provided some unsolicited advice to their northwest neighbors:

> *The San Juan Basin probably would be the last to minimize the economic and cultural significance of its Navajo population, and it must also realize that the advantages of harmony and mutual trust between the Navajo and the non-Indian components of its population are well worth a conscientious effort.*[43]

The city leadership in Farmington expressed its dissatisfaction with the manner in which the community was being portrayed in many of the news stories. Under intensive pressure, the city representatives turned to elected tribal officials outside of Farmington for assistance. Mayor Webb issued a plea in midsummer for greater tribal involvement:

> *It is absolutely necessary for the welfare of the Indian and non-Indian alike, that elected tribal officials assume a more active role in the resolution of the problems of their people. If tribal leaders remain silent, it will appear that the only voice of the Indian community is the Coalition.*[44]

Despite the fact that the Coalition for Navajo Liberation was composed primarily of Navajos who reside or have roots in San Juan County, the mayor and most other city and business leaders refused to recognize the organization's legitimacy to act on behalf of Navajo people in Farmington, and therefore refused to negotiate with it or even discuss its demands.

The following represent typical views expressed by Anglo Farmington citizens concerning the Coalition for Navajo Liberation:

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42. *Ibid.*

43. *Albuquerque Journal, May 17, 1974, p. A-4.*

44. *Navajo Times, June 27, 1974, p. B-3.*

I don't approve of the militant attitude of outside forces that have come into being.[45]

Chamber of Commerce President

These parades could be caused by subversives, you know, communists, for instance.[46]

City Councilman

We've had enough of parades; you're disrupting our rights...You are creating a feeling of unrest...maybe your goal is to keep coming until somebody does the wrong thing...I think violence in any manner is unforgivable and is not needed.[47]

Former Mayor and President
Downtown Merchants Association
(speaking to Coalition members)

The ones that are protesting have come from other places. They're a bunch of outsiders that are trying to get things stirred up. I've talked to some of the local Navajos and, hell, they don't have any complaints.[48]

Auto Parts Dealer

We have been subjected to false, fictitious, and unwarranted charges and...have been unable to get any cooperation from the troublemakers and accusers, whose sole motivation appears to have been to generate publicity and advance their own cause. (vol. 1, p. 15)

Mayor of Farmington

170,000 fine Navajo people who live in this area, the Southwest, are not being truly represented by the militant few... (vol. 3, p. 45)

Chairman
Board of County Commissioners

Most people in Farmington know that the local Navajos are not causing the trouble. We

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45. Albuquerque Journal, May 31, 1974, A-14.

46. Time Magazine, July 24, 1974, p. 36.

47. Farmington Daily Times, June 12, 1974, p. 1

48. Washington Post, July 7, 1974, p. B-5.

realize that they are being sold out. (vol. 3, p. 203)

Anglo Female (community witness)

I feel the biggest trouble...has been the people who have come in, the outsiders, and created this problem. (vol. 3, p. 205)

Broadcast Operator and Owner

In an editorial entitled "Self-Appointed Leaders," the Farmington Daily Times also challenged the Coalition's leadership and goals:

The manner in which a number of recently self-appointed spokesmen for the Navajo people have been conducting themselves is not representative of the overwhelming majority of responsible Indians residing in San Juan County.

Violence and threat of violence have never accomplished a single thing for the benefit of any minority group....

It is unreasonable, for example, to demand that non-elected representatives of any group be allowed to advise and be given authority to participate in any or all decisions that come before the city council and mayor....

The Navajo people have well-qualified representatives who have been elected according to law. We think they are far more representative of the people than those who attempt to seize authority by playing on the emotions of a vociferous minority.[49]

Some members of the community also expressed their contempt for what they considered to be disrespect of the American flag by the Coalition. One woman, whose son died in the military service, stated that she was "tired of seeing our flag draped upside down on somebody's behind." A former mayor of Farmington agreed, "I feel that any time any organization can usurp and attempt to desecrate the American flag, that is the time to remember all of us are Americans."[50]

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49. Farmington Daily Times, May 15, 1974, p. 4-A.

50. Farmington Daily Times, June 12, 1974, p. 1.

The owner of a nearby trading post failed to comprehend the Coalition's reaction to the Navajo torture deaths:

> *I can sympathize with the families of those that were killed...and yet really, murder is a common place thing in our society. Everybody is getting killed -- not everybody, but it still happens daily. And you don't have to be a racist to kill anybody. (vol. 3, p. 201)*

Coalition leader Fred Johnson responded to the charges that the organization was not representative of the Navajo community's interests:

> *Despite the fact the thousands of Indian people have joined in the marches we have organized in Farmington to protest white racism, despite the support we receive from the vast majority of Navajos, they have attempted to characterize us as irresponsible radicals who do not truly represent the people.*[51]

He also discussed Farmington's attitude toward the Coalition at the New Mexico open hearing:

> *Farmington looks upon us as a clear and present danger to white society simply because we have exposed much discrimination....And today we want the world to know that we don't like the actions of Farmington, the way we are being treated. To us, to protest is an act of intellectual commitment. We are dedicated to seeing that there is a better life for people in San Juan County. To us, to protest is to hate the inhumanity of another. This has to stop: the inhumane treatment of humans. To resist, we believe, is to stop inhumanity and affirm our own human rights so that others may learn from us so that this will be a better life. (vol. 1, p. 73)*

Local support for the Coalition for Navajo Liberation in the Anglo community was almost non-existent. One exception was the San Juan Human Rights Committee, a small group of moderate individuals,

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51. *Navajo Times*, June 27, 1974, p. B-2.

who hoped to help bring the divergent factions in the community together. The committee had been formed several years earlier under the leadership of an Episcopalian missionary minister. Although it had requested and was denied support and recognition from the city officials, the organization has endeavored on a private basis, closely working with the New Mexico State Human Rights Commission to resolve race-related problems. The present mayor of Farmington expressed his belief that the membership of the San Juan Human Rights Committee was not representative of Farmington's interests.[52]

The chairperson of the committee, Jim Fassett, released a statement soon after the mayor's decision to disband the Navajo Relations Committee, criticizing the city for refusing to recognize and negotiate with the Coalition:

> *The Coalition was organized to work with the community and has made every effort to do just that...from the moment the Coalition was formed. Mr. Webb made clear...that the city of Farmington would not work with the Coalition.... Mr. Webb could, with the backing of the city council, put an abrupt end to all of the marches and demonstrations by continuing to meet with the Coalition leaders and by listening in a sympathetic manner to their complaints.*[53]

Following the Federal district court order establishing the Coalition's right to conduct peaceful marches,[54] the Human Rights Committee chairperson issued another statement:

> *I wonder if the people of Farmington are aware of the fact that their city is now included in a very select group of municipalities which has attempted and failed to subvert the rights of citizens. Perhaps one day the name 'Farmington' will rank right up there with Selma and Birmingham.*[55]

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52. *Information from J. Richard Avena, regional director, Southwestern Regional Office, memorandum to Commissioners, May 20, 1974.*

53. *Farmington Daily Times, June 20, 1974.*

54. *Johnson, et al. v. Kerr, et al., Civil No. 74-314 (D.N. Mex., filed June 28, 1974).*

55. *Farmington Daily Times, July 2, 1974, p. 10.*

Other local groups expressing support for the Coalition were the NAACP, and several members of the League of Women Voters and Church Women United. The president of the Farmington chapter of the NAACP, Rev. Bill Cleaver, was an active member of the Coalition and the only local non-Indian deeply involved in the organization's activities. Reverend Cleaver testified at the New Mexico open hearing on a number of issues, including employment, education, and the administration of justice. In his closing remarks, he stated:

> *[It] astonishes me how some citizens of Farmington can say there is little or no discrimination in Farmington. What would it take for Farmington to know that these problems are real?....How long will Farmington refuse to see the afflictions of the needy? How long will it refuse to hear the cries of the oppressed? (vol. 3, p. 120)*

Several members of Church Women United and the League of Women Voters were also involved at critical times during Farmington's racial tension. One of their significant contributions was to help insure that arrested Indian activists received the full and equal protection of the law following the June 8, 1974, mass arrests.

The chairperson of Church Women United, Marge Kottke, offered this testimony to the New Mexico Advisory Committee:

> *In my estimation there are relatively few residents in the community who are sincerely concerned about the welfare - the problems of the minorities or low-income families. Some who are concerned, don't dare speak up....The prevailing attitude in this area is that money spent for human needs is a waste of tax dollars.... Indians have been treated as second-rate citizens in this county. Very few will deny this. (vol. 3, p. 94)*

The county director of the State Social Services Department, Blanche Kerkelis, who has devoted many years of her professional career to assisting Indian clients, offered the Advisory Committee her insights:

> *We are repeating...history...in Farmington in that the controlling elements of our community... have not shown that we have seen and heard.... The oppressed must...not only get louder; they must [also] threaten violence. Historically, in our nation...unfortunately, the next step is often violence.*

> *We would like to avoid it. We cannot avoid it, though, unless we bring ourselves up to date on the listening. (vol. 3, p. 122)*

San Juan County Manager Bob Bacon admitted to the New Mexico Advisory Committee that some prejudicial attitudes do indeed exist:

> *Many times we categorize. We may have good friends that have ethnic backgrounds, religious backgrounds, but we lose our cool, so to speak. We overemphasize that nationality and religion. We do characterize. We do call Spanish-surname people 'Spics'; we call Italians 'Wops', and 'Dagoes'. I have been called some very choice names. I think this is part of life....It will continue to prevail for quite some time. (vol. 3, p. 47)*

But many members of Farmington's Anglo community, while admitting that individual acts of discrimination might on occasion occur, echoed Byron Caton's philosophy on individual responsibility. Mr. Caton, assistant district attorney for San Juan County, said:

> *I believe that an individual who hurts another individual violently is a menace to our society and he is not typical of anything in any community. He is isolated and by himself. (vol. 1, p. 225)*

And Mayor Webb commented at the open meeting that:

> *...there is no one attitude in Farmington, just as any other city. We are a community of hundreds of individual attitudes. (vol. 1, p. 17)*

Sergeant O. Landdeck, director of Community Relations for the Farmington Police Department, warned, however, that the three Navajo deaths in Farmington were "only the portion of the iceberg that was above the surface. There were many other underlying things that existed for probably quite some time." He expressed the need for better communications and more cultural awareness between races in the community. And he maintained that "there has been a hardening of attitudes since the Coalition became active. You come into opinions and then it builds into attitudes which form prejudices." (vol. 1, pp. 195-197)

Peterson Zah, director of DNA, the Navajo Legal Services, also rejected the thesis that instances of discrimination could be isolated:

> *I have heard that the incidents that we have seen in the city of Farmington, San Juan County... are isolated incidents, but if you are a Navajo... I think you have a different, a very different view. (vol. 1 p. 272)*

Chairperson MacDonald referred to the "tragedy of human misunderstandings" existing in Farmington and other communities and attributed these to "negligent and insensitive attitudes on the part of responsible leaders." He told the Advisory Committee:

> *We are treated as strangers in our land and among our own neighbors. (vol. 2, p. 267)*

And he pleaded for cooperation and respect:

> *We only ask that we, the Navajos, be treated like human beings and be given the right and the opportunity to live a decent life. Opportunity, respect, and justice must replace the ugly racism that exists now between us.... What we ask of this community is a demonstration of good faith and good will and a willingness to meet us half way. (vol. 2, p. 268)*

As the New Mexico Advisory Committee open meeting got underway on August 28, 1974, Mayor Webb expressed grave misgivings and apprehension about the Commission's effort. He shared these concerns with the Advisory Committee in his "welcoming remarks" on the first day of the 3-day proceedings:

> *The Community has mixed emotions and many doubts concerning the holding of these hearings. The vast majority of the residents of Farmington see them as an intrusion that is uncalled for and a needless spending of our tax dollars....The community now looks upon these hearings as another intrusion and erosion of our individual rights and liberties. As citizens and taxpayers, we are tired of bureaucratic control of our lives and are ready to insist upon a return to a representative constitutional government, responsible to and responsive to the needs of the majority as well as the minorities who have been so favored in recent years....(vol. 1, p. 10)*

The mayor also asserted:

> *The very fact that this hearing is being held has placed this community on trial. (vol. 1, p. 13)*

However, the mayor was in attendance throughout the 3 days of open meetings and in his testimony on Friday, August 30, the final day of the meetings, he expressed a more positive attitude and proposed that meetings and consultations be started immediately with the city of Farmington, representatives of the Navajo Tribe, and representatives of the Coalition. He went on to discuss solutions:

> *Solutions will not come all easy or overnight.... We are here today because most of the community... failed to anticipate what would happen, failed to recognize the problem soon enough. (vol. 3, p. 17)*

He also warned against the expectation of unrealistic results, but expressed confidence in eventual success:

> *We must not expect to achieve our successes overnight....We will require a great deal of patience and understanding and communications to achieve any worthwhile goals.*
>
> *And knowing that proper and public solutions can be found and must be found, I commit myself as the administrator of the city of Farmington, to make this a place where we can work and play together in harmony with mutual respect and understanding. (vol. 3, p. 20)*

Near the conclusion of the meetings, Advisory Committee Chairperson Sterling Black read into the record a prepared statement by Joe Herrera, executive director of the New Mexico Indian Affairs Commission, which eloquently summarized the critical issue confronting the community of Farmington as it entered a new era of race relations and cultural pluralism:

> *The real crux of the problem, it seems, is the matter of racial prejudice as it exists in the minds and hearts of the individual. How does one approach this evil when it thrives in the inner recesses of the mind of an individual? Could there not be an affirmative action program directed at the attitudes of people?*

Since race prejudice is a learned behavior - so too can it be unlearned. A true appreciation of multiculturalism could be taught to the young - it is perhaps too late in the case of some adults - with an emphasis on the many advantages to be obtained by learning from those who are different than ourselves.

We must face the fact that we are stuck with living with each other for some time to come, and if a way is found to do so harmoniously, it will be to everyone's advantage. Of course, first someone must admit that prejudice is present. (vol. 3, p. 324)

FARMINGTON AND SAN JUAN COUNTY: A STUDY IN CONTRASTS

San Juan County contains two very different economies, life styles, and cultures. Geographically, these differences are very distinct. The northeastern part of the county, for example, contains the Anglo-dominated communities of Farmington, Aztec, and Bloomfield. The western half of the county is occupied largely by the Navajo Reservation and in small part, the Ute Mountain Indian Reservation which extends into Colorado. Nearly three-fourths of the land in San Juan County consists of Indian reservations. (See Figure 3)

In terms of population, San Juan County is fourth in size among New Mexico counties with a total population of 52,515, and second in relation to its Indian population. (See Table 1) Over half of the population in San Juan County is Anglo. Native Americans constitute the second largest population group in the county with about 18,400--more than 35 percent of the county's population. Spanish Americans make up approximately 13 percent, and blacks less than 1 percent of the total population.[56]

More than half of the population in San Juan County live in rural areas, with the rest residing in small urban centers. Thirty-six thousand or approximately 68 percent of the population resides in non-reservation areas. According to the 1970 Census, Anglos constitute

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56. *U. S., Bureau of the Census. Census of Population: 1970 General Social and Economic Characteristics, Final Report PC(1)-C33 New Mexico. Social Characteristics for Counties (hereafter cited as 1970 General Social and Economic Characteristics - New Mexico).*

INDIAN RESERVATIONS
FOUR CORNERS REGION

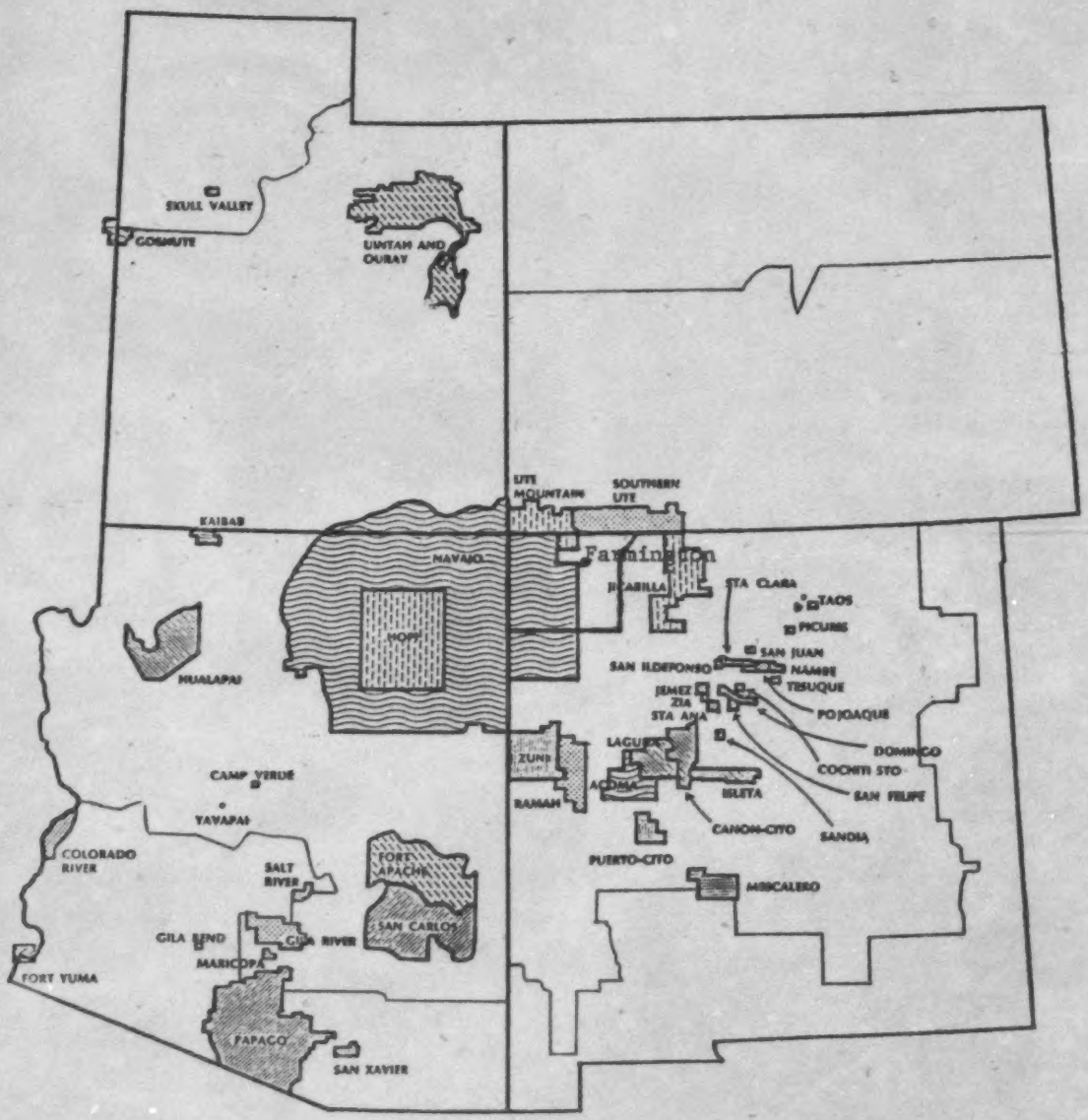

Figure 3

Source: U.S., Department of the Interior, Bureau of Indian Affairs

Table 1

INDIAN POPULATION BY COUNTY
NEW MEXICO: 1970

County	Total Population 1/ 1,015,998	Indian Population 2/ 71,582	% Indian 7.2%
Bernalillo	315,774	5,839	1.7
Catron	2,202	10	0.4
Chaves	43,331	603	1.3
Colfax	12,170	45	0.4
Curry	39,517	116	0.3
DeBaca	2,547	2	---
Dona Ana	69,773	207	0.3
Eddy	41,119	83	0.2
Grant	22,030	84	0.4
Guadalupe	4,969	5	0.1
Harding	1,174	7	0.6
Hidalgo	4,908	20	0.4
Lea	49,554	175	0.3
Lincoln	7,560	82	1.0
Los Alamos	15,198	71	0.5
Luna	11,706	9	---
McKinley	43,208	25,904	59.9
Mora	4,673	2	---
Otero	41,097	1,620	3.9
Quay	10,903	18	0.2
Rio Arriba	25,170	2,755	10.9
Roosevelt	16,479	97	0.5
Sandoval	17,492	6,495	37.1
San Juan	52,515	18,138	34.5
San Miguel	21,951	91	0.4
Santa Fe	53,756	1,095	2.0
Sierra	7,189	16	0.2
Socorro	9,763	707	7.2
Taos	17,516	1,193	6.8
Torrence	5,290	7	0.1
Union	4,925	2	---
Valencia	40,539	6,080	14.9

1/ U.S, Bureau of the Census, Census of Population: 1970 General Social and Economic Characteristics, Final Report PC(1)-C33 New Mexico, Table 119, Social Characteristics for Counties: 1970.

2/ U.S. Commission on Civil Rights, Socio-Economic Profile of American Indians in Arizona and New Mexico, Staff Report #1, November 1972, Table 5.

more than 70 percent, Spanish Americans 19 percent, Native Americans about 9 percent, and blacks less than 1 percent of the non-reservation population. On the other hand, more than 80 percent of the Indian population in San Juan County resides on the Navajo Reservation. The rest are concentrated in Farmington, on the Ute Mountain Reservation, and in scattered rural areas throughout the county.

Farmington, located at the confluence of the San Juan, Animas, and La Plata Rivers, is by far the largest city in the county and in the surrounding region with a population of about 22,000. Anglos make up nearly 78 percent of the city's population; another 14 percent of the population consists of Spanish Americans, and approximately 7 percent are Native Americans. Blacks comprise slightly more than 1 percent of the city's total population. (See Table 2)

With a population of about 5,000, the town of Shiprock, located on the Navajo Reservation about 30 miles west of Farmington, is the second largest community in the county. More than a population center, Shiprock provides the only source of many services to the Indian population residing in a vast region which extends beyond San Juan County and into parts of Arizona and Utah. Indeed, as a result of the remoteness of San Juan County from any sizable urban areas, Shiprock, like the city of Farmington, serves as a commercial and social center for an area and population much larger than that suggested by its boundaries and population figures. (See Figure 4)

Underlying the present population structure within the county is a rapidly changing economic picture. In general, the economy in San Juan County has tended to fluctuate over the last two decades. During the 1950s, for example, the county experienced a period of steady growth. This economic upswing also brought about a tremendous increase in population. The population in San Juan County increased from about 18,300 in 1950 to almost 53,300 in 1960. Similarly, Farmington expanded from a small town of approximately 3,600 in 1950 to a bustling city of nearly 24,000 at the beginning of the 1960s. A large part of this population increase was due to the inmigration of people from other parts of the country.

During the mid and late 1960s, however, the tremendous growth of the previous decade was not maintained. In fact, population growth ceased and declined slightly. One major cause for this decrease in population was that the economy in the region began to stabilize after an intense period of economic development. Consequently, the need for laborers and construction workers steadily declined. By 1970 population in the county decreased to about 52,500. The only areas to show any kind of sustained growth were Kirtland, Newcomb, and Shiprock, which are either entirely or partially located on the Navajo Reservation.

POPULATION DISTRIBUTION
FOUR CORNERS REGION

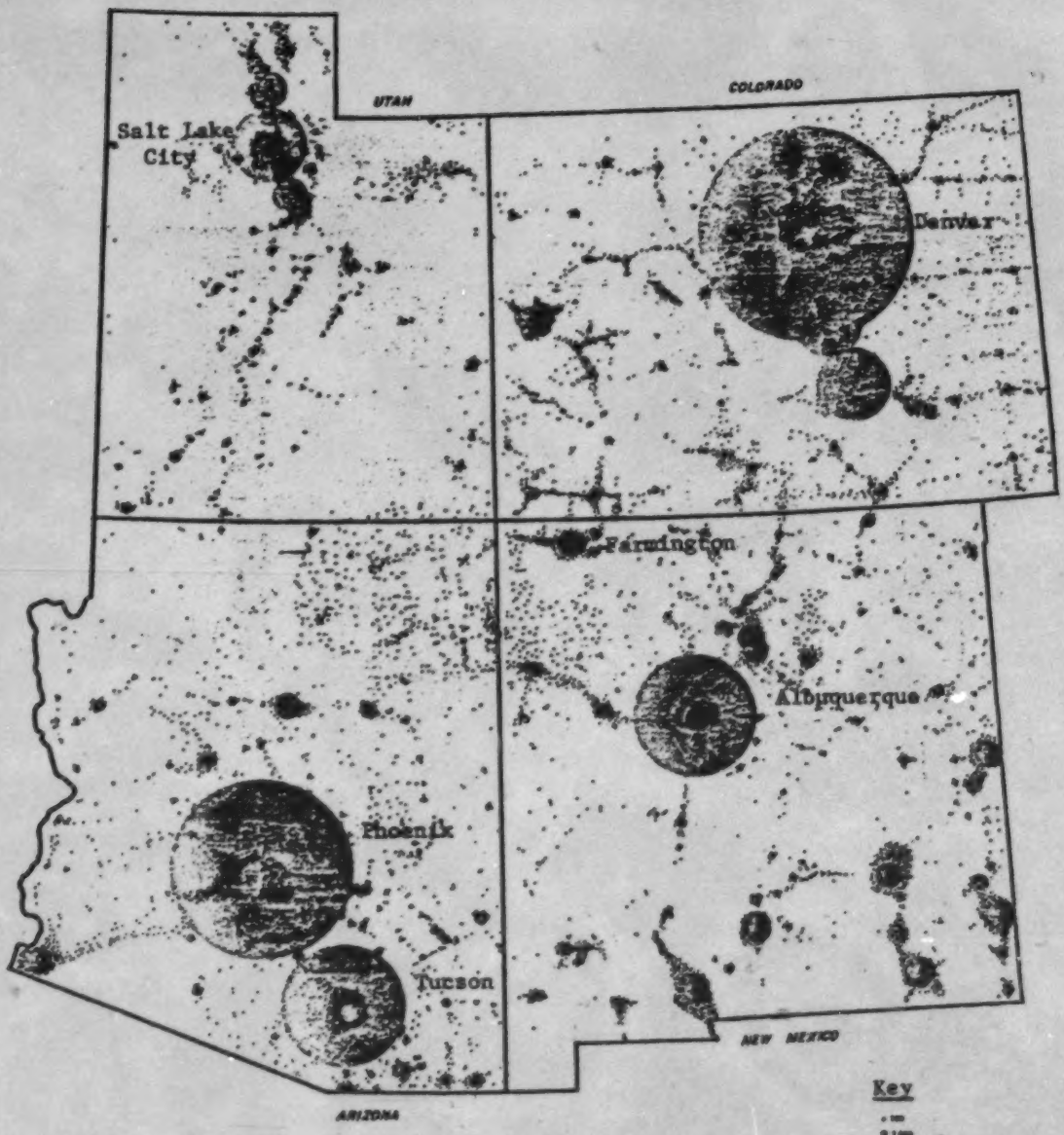

Figure 4

Source: U.S., Department of Commerce, Development Plan: Four Corners Regional Commission (February 1972).

Table 2

ETHNIC POPULATIONS IN SAN JUAN COUNTY:
1970

	County		Non-Reservation		Farmington		Aztec	
	Number	%	Number	%	Number	%	Number	%
Anglo 1/	26,874	51.2	25,479	71.1	16,936	77.8	2,232	66.5
American Indian 2/	18,439	35.1	3,165	8.8	1,450	6.6	120	0.4
Spanish American 3/	6,903	13.1	6,903	19.3	3,348	14.5	1,000	29.8
Black 4/	301	0.6	278	0.8	245	1.1	2	-
TOTALS	52,517	100%	35,825	100%	21,979 5/	100%	3,354 6/	96.7

SOURCE: U. S., Bureau of the Census. Census of Population: 1970, General Social and Economic Characteristics, Final Report PC(1)-C33. New Mexico.

1/ The category "Anglo" includes persons who indicated their race as white, as well as persons who did not classify themselves in one of the specific race categories on the questionnaire but entered Mexican, Puerto Rican, or a response suggesting Indo-European stock.

2/ The category "American Indian" includes persons who indicated their race as Navajo, as well as persons who classified themselves as Indian.

3/ The category "Spanish American" includes Mexican American, Spanish surname.

4/ The term "black" includes persons of the Negro race.

5/ Estimated 1975 population is 27,500.

6/ Estimate.

Aztec, the county seat, and Farmington suffered the largest losses in population between 1960 and 1970. (See Table 3)

With the increased need for energy resources, population has once again begun to increase. Population projections - even the lowest projections - predict a growth to approximately 75,000 people in the county by 1978. These projections also suggest an increasing growth in population for the county through the mid-1980s. (See Table 4)

Vital to these projections is the expected development of existing and new industry in the region such as the construction of several coal gasification plants, the construction of a new power generation plant to supplement the existing Four Corners Power Plant operated by the Arizona Public Service Company, and the continued development of the Navajo Irrigation Project. All these projects are located on the Navajo Reservation.

Population experts also predict a significant increase for the Navajo population during the next decade. A Navajo population ranging from a low of 30,150 to a high of 48,400 is projected for the county by 1978. (See Table 4) According to 1972 Bureau of Indian Affairs (BIA) estimates, approximately 26,000 Navajos now reside on the reservation within San Juan County. This figure is substantially larger than the population enumerated by the Bureau of the Census in 1970.[57]

Standing apart from the rest of the county and in close proximity to the Navajo Reservation is Farmington. In general, the population of this city is quite different from the rest of the county with respect to income, educational levels, and housing characteristics. In fact, Farmington has been often characterized as an "oasis" when compared to the rest of the county.

For example, the median income for families residing in Farmington is almost $10,000, and the mean income is nearly $12,000. The median income is defined as the amount which divides the distribution of all families of a particular racial/ethnic group in a specific geographical area into two equal subgroups, one subgroup having incomes above the median and the other having incomes below the median. The median family incomes for the county and State are $8,150 and $7,849, respectively. (See Table 5). Mean family income, which is obtained by dividing the total family income by the total number of families in a particular geographical area, is $9,160 for the county, and $9,193 for the State. By not including Farmington's population in the total median and mean family income,

57. *U. S., Department of the Interior, Bureau of Indian Affairs. Resident Indian Population, Labor Force, Employment and Unemployment, By State and Reservation, March 1972. Washington, D. C., July 1972.*

More than 128,000 Navajos live on or adjacent to the Navajo Reservation, largest Indian reservation in the United States. With a land mass the size of West Virginia, the Navajo Reservation spreads across three State boundaries: Arizona, New Mexico, and Utah, and encompasses about 14 million acres.

Table 3

POPULATION GROWTH, 1960 to 1970

SAN JUAN COUNTY

Area	1970	1960	Percent Change
New Mexico	1,016,000	951,023	+ 6.8
San Juan County	52,517	53,306	- 1.5
Aztec Division	5,850	8,011	- 27.0
Bloomfield Division	3,894	4,222	- 7.8
Farmington Division	23,028	23,786	- 3.2
Kirtland Division	3,053	2,723	+ 12.1
Newcomb Division	4,505	4,385	+ 2.7
Shiprock Division	9,918	7,615	+ 30.2
Simpson-Chaco Division	2,269	2,564	- 11.5
Aztec City	3,354	4,137	- 18.9
Bloomfield City	1,574	1,292	+ 21.8
Farmington City	21,979	23,786	- 7.6

SOURCE: U. S.,Bureau of the Census, Census of Population: 1970, General Population Characteristics, New Mexico.

Table 4

POPULATION PROJECTIONS
San Juan County, New Mexico
1974-1993

	1973	1978	1983	1988	1993	% Change 1973-1983	% Change 1973-1988	% Change 1983-1993	% Change 1973-1993	Aver Annu Incr 1973-
Low										
Non-Reservation	38,600	45,269	47,184	48,844	46,421					
Reservation	18,700	30,158	33,844	35,757	33,625					
Total	57,300	75,427	81,028	84,601	80,046	41.4	47.6	-1.2	40.0	1,13
Medium										
Non-Reservation	38,600	49,373	61,927	68,009	64,969					
Reservation	18,700	37,556	55,714	67,869	62,994					
Total	57,300	86,929	111,641	135,878	127,963	105.3	137.1	8.8	123.3	3,53
High										
Non-Reservation	38,600	62,662	79,956	86,450	81,533					
Reservation	18,700	48,368	76,379	89,232	84,691					
Total	57,300	111,030	156,335	175,682	166,224	172.8	206.6	6.3	190.1	5,44

Population History	1950	1960	1970	% of Increase 1950-1960	% of Increase 1950-1970
San Juan County	18,292	53,306	52,517	191.4%	187.1%

San Juan County Population-1970 Ethnic Composition	White	Negro	Indian	Total
	33,839 (64.4%)	301 (0.5%)	18,439 (35.1%)	52,517

SOURCE: Lewis-Eaton Partnership-Land Use Policy Statement for the San Juan Council of Governments - 1973.

Table 4

POPULATION PROJECTIONS
San Juan County, New Mexico
1974-1993

	1973	1978	1983	1988	1993	% Change 1973-1983	% Change 1973-1988	% Change 1983-1993	% Change 1973-1993	Average Annual Increase 1973-1993
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Table 5

INCOME DISTRIBUTION IN NEW MEXICO AND SAN JUAN COUNTY

Income	San Juan County		New Mexic	
	Number of Families and Unrelated Individuals	Percentage of Families	Number of Families and Unrelated Individuals	Pe
0-999	842	7.1	10,448	
1,000-1,999	665	5.6	12,647	
2,000-2,999	618	5.2	14,161	
3,000-3,999	642	5.4	15,982	
4,000-4,999	585	5.0	16,393	
5,000-5,999	708	6.0	17,885	
6,000-6,999	820	7.0	18,502	
7,000-7,999	860	7.3	18,090	
8,000-8,999	1,032	8.8	17,094	
9,000-9,999	828	7.0	14,724	
10,000-11,999	1,368	11.6	25,839	
12,000-14,999	1,382	11.7	25,036	
15,000-24,999	1,169	9.9	28,523	
25,000-49,999	184	1.6	6,235	
50,000+	86	0.7	1,181	
Median Family Income		$8,150		$7,849
Mean Family Income		$9,160		$9,193
Estimated Total Family Income		$107,987,000		$2,231,508,8

SOURCE: U. S.,Bureau of the Census, Census of Population: 1970 General Social and Economic Characteristics, Final Report PC(1)-C33, New Mexico.

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40

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Z: U. S.,Bureau of the Census, Census of Population: 1970 General Social and Economic Characteristics, Final Report PC(1)-C33, New Mexico.

figures for the county drop dramatically to about $5,200 and $6,900, respectively. (See Table 6)

Income estimates for Navajo families living on the reservation are even lower. In a report prepared by the U.S. Commission on Civil Rights for its hearings in Window Rock, Ariz., it was estimated that the median income for Navajo families is only about $3,000, and the mean income is slightly over $4,000.[58]

Another measure of relative wealth is the per capita income. Briefly, the per capita income is the mean income computed for every man, woman, and child in a particular place. It is derived by dividing the total income of a particular group by the total population in that group. The per capita income for the entire population in San Juan County is approximately $2,000. In contrast, the per capita income for Farmington residents is nearly $3,200. This figure is significantly higher than the State per capita figure of $2,499. On the reservation, the average per capita income is less than $1,000 a year, which is about $3,000 less than the national average.[59]

Reflecting these low-income figures is the fact that nearly 22 percent of all the families residing in San Juan County receive incomes less than the poverty level. The vast majority of these families are Navajos. In Farmington, however, only about 7 percent of all the families receive incomes below the defined poverty level. In comparison, about 19 percent of the total population in the State receives incomes below this level. (See Table 6)

Another important social indicator is the median number of school years completed by persons 25 years old and over. The median for San Juan County as a whole is 12.0 years. The educational level for Farmington residents is somewhat higher than that for the rest of the county and slightly above average for the nation. Almost two-thirds of the city's population over 25 years of age has completed high school. The median level of formal schooling for residents living in Farmington is approximately 12.5 years compared with a national median of 12.1 years.[60]

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58. *U. S., Commission on Civil Rights. Staff Report. Demographic and Socio-Economic Characteristics of the Navajo. Office of General Counsel, Washington, D. C., Oct., pp. A-59 and A-60, (hereafter cited as Staff Report).*

59. *Staff Report, p. A-60.*

60. *General Social and Economic Characteristics - New Mexico, Table 10.*

Table 6

CHARACTERISTICS OF THE POPULATION, 1970

	Farmington		San Juan County Excluding Farmingto	
	No.	Percent	No.	Perc
Racial Composition				
Total population	21,979	100.0	30,538	100
White	20,159	91.7	13,396	43
Indian	1,450	6.6	16,989	55
Negro	245	1.1	56	
Mobility				
Total population, 5 years old and over	19,861		26,900	
Percent in same house in 1965	40.4		55.6	
Percent in different house in U.S. in 1965	52.6		39.8	
San Juan County	44.0		59.8	
Different County in New Mexico	15.5		15.1	
Different State	40.5		25.1	
Percent abroad in 1965	1.3		.2	
Percent moved, 1965 residence not reported	5.7		4.4	
Income				
Median family income	$9,947		$5,230	
Mean family income	$11,750		$6,863	
Per capita income of persons	$3,154		$1,517	
Percent families with incomes less than poverty level	7.1		34.6	
Mean size of family	3.96		5.28	
Percent of all persons with incomes less than poverty level	8.6		39.2	
Percent receiving Social Security income	14.3		7.5	
Percent 65 years and over	12.2		6.6	
Education				
Male, 25 years old and over				
Median school years completed	12.5		10.1	
Percent high school graduates	65.8		38.3	
Female, 25 years old and over				
Median school years completed	12.4		10.0	
Percent high school graduates	65.1		37.9	

(a) Derived from census data by Battelle-Columbus.

SOURCE: U. S. Bureau of the Census. Census of Population: 1970 General, Social and Economic Characteristics, New Mexico.

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URCE: U. S. Bureau of the Census. Census of Population: 1970 General, Social and Economic Characteristics, New Mexico.

For the county, a different picture emerges. The median number of school years completed by all rural farm residents 25 years old and over in San Juan County (approximately 80 percent of whom are Navajos) is 7.3 years. The median education level of adult reservation Navajos, in contrast, is only 5.3 years. Statewide in 1970 the corresponding median was 12.2 years.[61]

A third important indicator for measuring the standard of living among various racial/ethnic groups is the quality of housing. Housing conditions for Navajos, in this respect, are deplorable both on and off the reservation. Many Navajo dwellings lack indoor plumbing, electricity, refrigeration, and telephones. Domestic and agricultural water supplies for the more remote areas on the reservation are usually obtained from shallow wells, windmills, and ponds provided by the Bureau of Indian Affairs or Public Health Service. Kitchen facilities are virtually non-existent on the reservation.

Housing conditions in Farmington and its immediate neighbors, Aztec and Bloomfield, are vastly different. Almost every home is equipped with complete plumbing and kitchen facilities, and most have telephones. In general, conditions in Farmington are comparable to most modern cities of the same size. But the contrasts between Farmington, the Navajo Reservation, and the rest of the county, with regard to housing, are stark. For example, over 98 percent of all the dwelling units in the Farmington census division have a complete set of plumbing facilities. In contrast, only about 37 percent of all the dwelling units in the Shiprock census division have all plumbing facilities. The same disparities exist with respect to other housing characteristics. (See Tables 7 and 8)

The social, economic, and historical patterns underlying the region are extremely complex. There are two different economic structures, life styles, and cultures. These differences have a tremendous impact on the relationships between the Navajo people and the towns surrounding the reservation. As subsequent chapters will show, there has been for the most part little interaction between the Navajo and the Anglo with the possible exception of the economic sphere. One consequence of this lack of interaction has been a severe misunderstanding of each other's motives and intentions. Thus, despite the fact that only a boundary line separates these two worlds, each remains isolated from the other.

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61. Ibid.

Table 7

HOUSING CHARACTERISTICS BY CENSUS COUNTY DIVISIONS, SAN JUAN COUNTY, NEW MEXICO, 1970

Housing Characteristic	Shiprock Division	Newcomb Division	Kirtland Division	Farmin Divis
Population by Race				
Total	9,918	4,505	3,053	23,02
White	614	216	2,251	21,06
Indian	9,264	4,277	788	1,56
Percent Indian	93.4	95.0	25.8	6.
Total Occupied and Vacant Year-Round Dwelling Unit	2,212	1,163	823	7,16
Number of Dwelling Units per Structure	Percent of All Occupied and Vacant Year-Round Dwelling			
1-unit structure	78.3	95.2	77.0	74.
2 or more units	13.7	4.6	4.5	13.
Mobile Home or trailer	8.0	0.2	18.5	12.
Plumbing Facilities				
Hot and cold piped water	38.9	18.7	84.2	99.
Only cold piped water	9.9	4.9	1.7	0.
No piped water	51.2	76.4	14.1	0.
No bathtub or shower	60.4	82.0	15.9	0.
No flush toilet	59.9	81.2	15.7	0.
All plumbing facilities	36.7	16.9	83.5	98.
Lacking piped hot water only	1.9	0.8	0.4	0.
Lacking one or more plumbing facilities	61.4	82.3	16.1	1.
Kitchen Facilities				
No complete kitchen available to this household	55.4	79.7	15.9	2.
	Percent of Total Occupied Dwelling Units			
Telephone Not Available	85.3	92.3	27.0	14.

Source: U.S., Bureau of the Census, 1970 Census of Housing, Second Count Summary Tapes-Census County Divisions.

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obile Home or trailer	8.0	0.2	18.5	12.5
mbing Facilities				
ot and cold piped water	38.9	18.7	84.2	99.0
nly cold piped water	9.9	4.9	1.7	0.7
o piped water	51.2	76.4	14.1	0.3
o bathtub or shower	60.4	82.0	15.9	0.9
o flush toilet	59.9	81.2	15.7	0.9
ll plumbing facilities	36.7	16.9	83.5	98.1
acking piped hot water only	1.9	0.8	0.4	0.1
acking one or more plumbing facilities	61.4	82.3	16.1	1.8
chen Facilities				
o complete kitchen available to this household	55.4	79.7	15.9	2.3
	Percent of Total Occupied Dwelling Units			
ephone Not Available	85.3	92.3	27.0	14.0

Source: U.S., Bureau of the Census, 1970 Census of Housing, Second Count Summary Tapes--Census County Divisions.

Table 8

HOUSING CHARACTERISTICS FOR SELECTED CENSUS COUNTY SUBDIVISIONS: NAVAJO RESERVATION, 1970

Housing Characteristics	Shiprock Division				Newcomb Divi		
	Subdivision Number						
	39	40	41	42	45	46	48
Population by Race							
Total	1,670	2,501	1,431	1,377	300	976	631
Indian							
Percent Indian	83.2	87.8	98.3	100.0	100.0	93.4	96.5
Total Occupied and Vacant Year-Round Dwelling Units	414	530	257	274	61	371	141
Number of Dwelling Units per Structure	Percent of All Occupied and Vacant Year Round Dwelling						
1-unit structure	46.9	71.1	93.4	87.6	100.0	96.8	98.6
2 or more units	42.3	13.4	6.2	6.9	0	2.7	0.7
Mobil home or trailer	10.9	15.5	0.4	5.5	0	0.5	0.7
Plumbing Facilities							
No flush toilet	17.1	39.8	70.0	98.2	100.0	81.9	92.2
All plumbing facilities	80.2	55.8	22.6	1.1	0	15.6	7.8
No plumbing facilities	19.8	44.2	77.4	98.9	100.0	84.4	92.2
Kitchen Facilities							
Lacking complete kitchen facilities	14.5	31.7	67.3	97.1	100.0	79.0	92.2
	(Percent of Total Occupied Dwelling Units)						
Telephone Not Available	66.9	77.0	94.4	99.6	92.7	92.8	99.3
With 1.51 or more persons per room	38.1	48.1	68.7	71.7	80.0	55.9	76.5

Source: U.S., Bureau of the Census, 1970 Census of Housing, Second Count Summary Tapes--Census County Divisions.

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Number of Dwelling Units per Structure	Percent of All Occupied and Vacant Year Round Dwelling Units						
1-unit structure	46.9	71.1	93.4	87.6	100.0	96.8	98.6
2 or more units	42.3	13.4	6.2	6.9	0	2.7	0.7
Mobil home or trailer	10.9	15.5	0.4	5.5	0	0.5	0.7
Plumbing Facilities							
No flush toilet	17.1	39.8	70.0	98.2	100.0	81.9	92.2
All plumbing facilities	80.2	55.8	22.6	1.1	0	15.6	7.8
No plumbing facilities	19.8	44.2	77.4	98.9	100.0	84.4	92.2
Kitchen Facilities							
Lacking complete kitchen facilities	14.5	31.7	67.3	97.1	100.0	79.0	92.2
	(Percent of Total Occupied Dwelling Units)						
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With 1.51 or more persons per room	38.1	48.1	68.7	71.7	80.0	55.9	76.5

Source: U.S., Bureau of the Census, 1970 Census of Housing, Second Count Summary Tapes--Census County Divisions.

THE ADMINISTRATION OF JUSTICE IN FARMINGTON AND SAN JUAN COUNTY

The enforcement of all laws and municipal ordinances within the incorporated city limits of Farmington is the official jurisdiction of the Farmington Police Department with the city manager and the mayor acting as overseers.[62] To execute this responsibility, the police department operates on an annual budget of approximately $600,000 and employs 74 persons. The department is comprised of a chief of police who is appointed by the city council, 6 lieutenants, 6 sergeants, 7 detectives, 37 patrolmen, and 17 clerical and maintenance personnel. Presently, only two Navajo police officers and one Navajo clerical person are employed by the police department. There are no black employees and only four Spanish Americans. (vol. 1, p. 107)

A significant portion of the funding for the Farmington Police Department comes from the Law Enforcement Assistance Administration (LEAA). The police department has received a number of grants from LEAA totaling over $100,000 in the last 3 years. (vol. 1, p. 113) Pursuant to LEAA civil rights compliance guidelines, the department is required to formulate and maintain an affirmative action plan.[63] This affirmative action plan, which is kept on record at the city personnel department and has been submitted to LEAA, does not contain

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62. *N. Mex. Stats. Ann. ch. 14, §17 (1) (f) and (G) (Supp. 1973).*

63. *LEAA programs are covered by civil rights laws, regulations, and Executive orders. The law prohibits discriminatory practices in LEAA programs based on race, color, or national origin, and in some cases, on the grounds of religion, creed, or sex. See Third Annual Report of the Law Enforcement Assistance Administration (1971), p. 19. See also: 42 U.S.C. §3766 (c)(1)(1973).*

any goals or timetables for recruiting minorities, according to Police Chief Roy D. Kerr. Although Chief Kerr was not certain whether this plan had been approved by LEAA, he was of the opinion that it must have been or the department would not have received the Federal funds. (vol. 1, pp. 118-119)

The recruitment program of the Farmington Police Department consists of filling vacancies with walk-in applicants. This system has been used for approximately 10 years. When questioned by the Advisory Committee as to the possibility of active recruitment of Navajos, Police Chief Kerr responded:

> *They know where the police department is. If they are interested in police work, that is naturally where they would go. (vol. 1, p. 110)*

Police Chief Kerr was asked whether it was reasonable to suppose that if the department had not been able to recruit minorities using this method in the past, that they would not be able to do so in the future. Chief Kerr replied that "efforts have been made to change some of the requirements for employment, but that this did not help." He expressed his hope that more Navajos could be hired by the department. (vol. 1, p. 116)

Applicants to the police department must have at least a high school education, be in good physical condition, and pass the written examination administered by the city personnel office. Individuals who meet the requirements are then interviewed.

Applicants who are hired as police officers must undergo at least 4 weeks training at the police academy in Santa Fe, according to State law.[64] Upon completion of this training, the officer begins inservice training with the Farmington Police. The training does not include any sensitivity or cultural awareness programs. Although the chief concurred that such training would probably be valuable for officers, he said no efforts had ever been made to institute such a program of instruction. (vol. 1, p. 112)

Witnesses at the open meeting spoke about the lack of sensitivity of Farmington police officers. One person testified:

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64. N. Mex. Stats. Ann. ch. 39, §6 (9)(1973).

> *When I was going to school in my grade school, I was told by my teacher that a policeman was a friend. They certainly didn't mean Farmington police. There are many policemen in Farmington where they go up to a drunk and start hitting them or beating them up or using their black-jacks on them (vol. 3, p. 256)*

Several witnesses also alluded to prejudiced attitudes of police officers toward Navajos. One witness stated that he thought:

> *...the police officers hate the Navajo Tribe and they hate the Navajo more than anything else that they hate. (vol. 3, p. 192)*

Accusations of racial slurs were also levied against the police. One Navajo teenager testified that while being transported to jail on a curfew violation he was lectured by a police officer:

> *You Indians ain't nothing but red dogs and animals. Your folks are living off welfare and run behind the bars....(vol. 3, p. 245)*

Jeana Rogalska, a free lance reporter from Chicago also testified about the stereotypic attitudes that one Farmington police officer held. In the process of warning Ms. Rogalska to stay away from the areas frequented by Indians, he told her:

> *They don't have any sense of life or death. They would just as soon go ahead and kill you for a bottle of wine or liquor. They have no sense of moral values. (vol. 1, p. 172)*

Beyond these allegations of race prejudice, complaints were received about the inequity of police protection in the poor areas of Farmington where most minorities reside. One embittered witness said:

> *In Farmington there is law only for the wealthy, only for those who can pay for it. Justice in Farmington is more than an assumption and a reality as far as the Navajos are concerned. We have an adversary process in which the lowest, the ignorant and the inconsequential have at best, token representation, while others, the well-to-do, the ones who need the least, receive the most, and they buy it. (vol. 1, p. 57)*

The position of the police department is that they provide equal services to all sectors of the city, but they are hampered by lack of personnel because of their limited budget.[65]

Responding to a question asked by Advisory Committee members on alleged police use of excessive force, Lt. Winston Davis explained in detail the way these complaints are processed by the police department. Each complaint, he said, is investigated internally by the department, and if it is determined that the complaint is not frivolous, it is referred to the Federal Bureau of Investigation (FBI). Lt. Davis estimated that complaints substantial enough for FBI intervention average about one per year. (vol. 1, p. 180)

One positive step that the Farmington Police Department has taken to alleviate these problems was the establishment of a Police Community Relations Unit within the department in December 1969. The function of this special unit is succinctly stated in the Farmington Police Annual Report for 1973:

> *Police Community Relations is not merely a problem-solving device. It is a problem-avoidance methodology which should not be confused with 'public relations' which is image building and selling, and it is not analagous to riot prevention or working exclusively with minority groups. Police Community Relations are the sum total of all of the actions and interactions between the police and all individuals within the community which emphasize the fact that the police are a part of and not apart from the community they serve.*[66]

Presently, this program is still in existence although there appears to be some divergence as to its function and purpose. The police chief, for example, refers to the director of the Community Relations Program as the "public relations man," thus, reinforcing the belief that the role is one of building up the image of the police department in the community. (vol. 1, p. 128)

The director of the Community Relations program, Sgt. Owen Landdeck, however, views the role quite differently. He describes the function of the program as working with groups, finding out what the problems are, and working toward a solution to those problems.

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65. *Chief Roy Kerr, interview in Farmington, N. Mex., July 12, 1974.*

66. *Farmington Police Annual Report, Farmington, N. Mex. (1973), p. 22.*

Sergeant Landdeck, however, readily admitted at the open hearing that the bulk of the work had been done in schools and would be classified as public relations. (vol. 1, p. 192)

This program operates on a very limited budget. In 1969 and 1970, the allocation consisted of the director's salary and the use of a city vehicle. In 1971 and 1972 the unit received an additional $840 for the preparation of materials for use in the elementary schools; and in 1974, about $1,120 worth of films on drug abuse and crime prevention were given to the unit as well as a portable public address system and equipment for making slides. By comparison, the total budget for the department fiscal year 1972-73 was approximately $638,000. (vol. 1, pp. 193-194)

The community relations officer has had additional difficulty because of the lack of participation in the program by other officers. According to Sergeant Landdeck, this may be caused by the fact that there is very little acceptance within the police department of the Community Relations Unit. Thus, the whole burden is on the one staff member — Sergeant Landdeck.

Since Farmington is located within the boundaries of San Juan County, the responsibility for maintaining law and order in the city is shared somewhat with the San Juan County Sheriff Department. Most of the law enforcement activities of this department, however, are concentrated outside the city limits unless there are extraordinary circumstances which necessitate the county's involvement.

The county sheriff has jurisdiction over all of San Juan County, with the exception of the Navajo Reservation which covers an area of more than 5,516 square miles and includes the cities of Aztec, Bloomfield, and Farmington.

The department has a total of 24 employees of whom 13 are deputies. The sheriff's department employs one Navajo Indian deputy and one Spanish American deputy, which, according to Sheriff Dan Sullivan, is in parity with the Navajo and Spanish population of San Juan County. Additional recruitment of minorities, he added, has been limited due to the fact that his term expires on the first of January 1975; he cannot guarantee employment to applicants beyond that time. Since the county has no merit system, potential employees are reluctant to leave their jobs for one that offers no job security, he said. Sheriff Sullivan noted, however, that contacts have been

made in Shiprock, Crown Point, and Window Rock to recruit Navajos. The department also maintains someone who is fluent in Navajo on each of the two shifts. When a non-English-speaking individual is detained, the person is not questioned until one of the bilingual deputies is present.[67]

The Sheriff Department's training program is similar to the municipal police department's in that all deputies are required to attend the police academy in Santa Fe and that there is no sensitivity or cultural awareness program for these law enforcement officers.

One aspect of law enforcement is detaining people suspected of violating the law. Review of the arrest records is often beneficial in determining the types of illegal activities that predominate in a community and establishing characteristics of those detained. For these reasons, staff of the Commission's Southwestern Regional Office undertook a study of Farmington's arrest records for a 5-year period commencing in 1969. One major finding of this study was the over-representation of Native Americans among those detained consistently during each year of the study. Specifically, Indians comprised the following percentages of total arrests in Farmington for the years studied: 1969, 79 percent; 1970, 84 percent; 1971, 80 percent; 1972, 81 percent; 1973, 83 percent. Thus, during this period, there was definitely a preponderance of Indians arrested.[68]

Further examination as to the possible cause of this statistical imbalance revealed that a substantial percentage of the Indians arrested were detained for violations that could be directly attributed to alcohol.

Witnesses at the open meeting repeatedly addressed themselves to the problem of alcohol and alcoholism in Farmington. One community witness summed up his feelings:

> *There are alcohol-related problems leading straight into the jails and from the jails into the court system; and from the court system into the Big Slammer, into the State Penitentiary of New Mexico. (vol. 3, p. 48)*

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67. Sheriff Dan Sullivan, interview in Aztec, N. Mex., July 19, 1974.

68. See Table 3 Appendix A for a summary of arrest patterns in Farmington, N. Mex., 1969-1973.

Lt. Winston Davis attributed the large number of alcohol-related arrests to the fact that the same 350 or 400 individuals are repeatedly detained. The fact remains that of all the American Indians taken into custody in 1969 and 1970, 90 percent were detained for alcohol-related offenses, 87 percent in 1971, 86 percent in 1972, and 85 percent in 1973. (vol. 1, p. 152)

The New Mexico State Legislature, in attempting to remedy this situation, enacted the Detoxification Act in June 1973.[69] The act decriminalized drunkenness and emphasizes the protection of the individual and others in the event that the intoxicated person becomes disorderly.

According to the statute, an inebriated individual may be transported to his residence, a health care facility, or the city or county jail. In discussing confinement in jail, the statute reads:

> *A peace officer or public service officer shall transport to the city or county jail an intoxicated person who has become disorderly when it appears that the intoxicated person: (1) has no residence in the county in which he is apprehended; (2) is unable to care for his own safety; or (3) constitutes a danger to others if not transported to jail.*[70]
> [*Emphasis added*]

Although jail is only one alternative provided in the statute, it is used almost exclusively by the Farmington Police Department regardless of whether an individual has become disorderly or not. The reason given for indiscriminately transporting all intoxicated individuals to the city jail is that there is no detoxification or rehabilitation center, sleep-in facility, or halfway house currently in existence within the city or county limits, and that taking individuals home is unfeasible since many of those taken into custody live on the Navajo Reservation.

Thus, while the act provides that an inebriated person may be taken to his home, jail, or a health care facility, the only viable alternative, according to Lieutenant Davis, is transporting these individuals to jail. (vol. 1, p. 163) This alternative is often

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69. *The Detoxification Act, N. Mex. Stats. Ann. ch. 46, §14(1), et.seq. (1973).*

70. *Ibid., ch. 46, §14 (3)(c).*

more desirable, he noted, since difficulties could ensue in which family members, as well as police officers, could be injured.

All individuals taken into protective custody are placed into a "drunk tank." This cell is approximately 15' by 15' and has a commode and sink but no bunks. There are no mattresses placed in the cell because, according to Lieutenant Rodgers, "they (the protective custodies) would tear them up faster than we can put them in." (vol. 1, p. 164)

Under the present system, nothing is done to provide medical attention or care at the jail. Protective custody confinees are merely allowed to "sleep it off" for a minimum of 4 and a maximum of 12 hours until it is determined that the individual is sufficiently sober to function without bringing harm to himself or endangering others. The only exception is if a person becomes ill or begins to hallucinate, in which case he is taken to a doctor or to the hospital for treatment. (vol. 1, p. 157)

There is wide dissatisfaction with the Detoxification Act. The police, according to Lt. Don Rodgers, believe that a heavier burden has now been placed on them because now the intoxicated persons do not serve lengthy terms in jail and consequently, "now we handle them on about a 12-hour basis, with the same people coming in every day." (vol. 1, pp. 148-149)

Lt. Winston Davis emphasized in his testimony that this system is also detrimental to the health of the individuals involved:

> *Under this bill, a person who is a regular inmate will, in all probability, be incarcerated once a day as opposed to once a week, resulting in the absence of adequate 'drying out' or eating, thus, resulting in severe rates and degrees of delirium tremors occurring. (vol. 1, pp. 155-156)*

Lieutenant Davis asserted that the act, which was intended to protect these people, is killing them.

In light of the controversy surrounding the Detoxification Act, Commission staff reviewed the records of all protective custody cases for the first 1-year period that the act was in effect. Since the program was initiated in June 1973, there have been a total of 3,892 cases of protective custody handled by Farmington police. This figure averages to approximately 300 cases per month.

These figures may be misleading since there is a high rate of recidivism among protective custody cases. Of those confined during this 1-year period, 522 persons were repeaters; they were confined at least twice within the year for protective custody; and four individuals were confined more than 40 times within the year. In some cases, individuals were confined twice in the same day.71

The rate of recidivism appears to be much higher among Native Americans. Approximately 94 percent of all repeaters are of Indian origin; whereas, all other racial/ethnic groups comprise only 6 percent of protective custody repeaters. Also characteristic of most repeaters is that they are predominantly male (86 percent) and most often between 20 and 40 years old.

No one is more concerned about this alcohol problem than the Indian community. Although the number of Indians who are detained for protective custody is small in comparison to the total Indian population of Farmington, the community feels that stereotype attitudes are being formed which are damaging to all Indian residents. For example, one witness said:

> *...Farmington and certain people in New Mexico look at Navajos...as drunks who cannot help themselves, as drunks who are of no use to society whatsoever, without looking into the cause of it. (vol. 2, p. 50)*

Law enforcement officials, on the other hand, are also concerned about the burden that so many protective custody and alcohol-related cases place on the Farmington Police Department. The department, for example, spends approximately 70 percent of its time on protective custody cases. (vol. 1, p. 160)

In testimony at the open meeting, Byron Caton, assistant district attorney for San Juan County, addressed the practice of having the city police handle all protective custody cases within the city limits. Mr. Caton said:

> *Every time a protective custody detention is made, police officers are off the street and when you have the burglary rate that we have in San Juan County, we can't afford to be spending our police power trying to deal with alcoholic problems. (vol. 1, p. 206)*

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71. See Appendix A for a general analysis of protective custody arrests.

Although no one had any final answers as to how to solve this problem in Farmington, there was agreement that liquor laws should be more strictly enforced. Many of the witnesses felt that there are widespread violations of liquor laws by retailers in Farmington and that this was a major cause of the present situation. One member of the Coalition for Navajo Liberation testified:

> *The selling of liquor is rampant and is greatly abused. The selling of liquor to already drunk people, to minors, to our children....There is great bootlegging going on. Because of alcohol, there are many cases of driving while intoxicated accidents. (vol. 1, p. 48)*

He asserted that perhaps liquor laws are not stringently enforced because:

> *Liquor brings a lot of money to San Juan County, both for the county and for the State. Approximately $7 million comes from liquor alone in San Juan County. We feel that because of this great amount of money flow, both to the county and to the State, the white people in Farmington are hesitant to enforce the laws on the books today. (vol. 1, p. 48)*

A DNA attorney concurred and added:

> *I have personal knowledge of an incident that occurred in the last 24 hours of a youth that was in fact arrested in one of the bars and the main law enforcement problem was how to get him back to the parents. The bar owner goes on feeding the juveniles more alcohol. (vol. 3, p. 163)*

Numerous allegations were made about the failure of municipal and State officials to adequately enforce the liquor laws. Lt. Mehl Tafoya of the Farmington Police Department testified that every bar in Farmington is required to have both State license and a city occupancy license in order to operate. Therefore, it is legally possible to file a complaint with the city against a bar that is violating a law as the city council has the power to revoke a business' city license. According to Lieutenant Tafoya, this has never been done in Farmington, as all such cases are referred to the State Alcohol Beverage Control Department. (vol. 1, p. 170)

The director of the State Alcohol Beverage Control Department, Carlos Jaramillo, testified at the open meeting that he felt there were more violations in Farmington than had been received and that more reports should have been submitted to the department by the Farmington police.

Mr. Jaramillo stated:

> *...within the 3 1/2 years I have been the director, we have had 10 referrals to my department on violations from the Farmington police. (vol. 2, p. 15)*

Mr. Jaramillo explained that to a large extent his department has had to depend on local law enforcement officials. Because of budgetary limitations each State agent must be assigned to two or three counties. The agent assigned to Farmington visits the city every other week. During this time, the agent meets with local law enforcement officers to determine whether there are any complaints and/or reports to investigate and visits local bars. These "spot checks," however, are not totally effective. Mr. Jaramillo stated that:

> *...the bar owners have a way of getting word around. If you hit one of them, all of them will know you are in town. (vol. 2, pp. 19-20)*

Many of the complaints about alcohol abuse made at the open meeting dealt with the so-called "Indian Bars" in Farmington. At the two "Indian Bars" located within the city limits of Farmington a great number of Indians are apprehended for drunkenness.

In 1969 there were a total of 233 arrests at one bar, and in 1973 this figure increased by 56 percent to 363.[72] The justification for labeling this bar an "Indian Bar" can readily be seen as 99 percent of those arrested in 1969 and 97 percent of those taken into custody at this bar in 1973 were Native Americans. Similarly, another local bar had a total of 306 arrests in 1969 and 799 in 1973. Again, these figures indicate primarily an Indian clientele.[73] (See Appendix B)

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72. *Since the Detoxification Act of 1973, those taken into protective custody are not considered to be "arrested," and no formal record is kept by the police department.*

73. *Data on these arrests were secured from the ledger maintained by the Farmington Police Department. This ledger is used to record all arrests by race, location, and charge.*

Mr. Jaramillo addressed this issue at the open meeting and indicated that under the New Mexico Liquor Control Act, the Department of Alcohol Beverage Control is vested with the enforcement authority to protect the public safety or morals of the community as pertaining to the license of licensees who are a public nuisance (emphasis added) to the community. Mr. Jaramillo, however, felt that the problems with the bars in Farmington were "more of a social problem than a public nuisance." (vol. 2, p. 11)

Another major issue to emerge from the open meeting was the lack of legal assistance to indigent Navajos arrested for misdemeanors or felonies. According to one attorney, the kinds of assistance available to indigent Navajos in Farmington consist primarily of public defenders, court-appointed attorneys, and legal assistance provided through the Economic Opportunity Council, Inc., located in Farmington, and DNA - Navajo Legal Services, Inc., in Shiprock.

The public defender system consists of two attorneys who serve under contract with the city of Farmington and are assigned to the municipal court. Their job consists of counseling individuals who are incarcerated prior to going into court and advising them of their rights and the legal alternatives available to them. At present neither attorney is bilingual. (vol. 1, p. 251)

When a plea is entered by an indigent in a misdemeanor case involving a fine up to $300 and/or 90 days in jail, the court will appoint an attorney to represent that person. Often that attorney will be the public defender. This occurs frequently in cases involving Navajos, according to Judge Roy Marcum, the present municipal judge. (vol. 1, p. 252)

Some members of the community dislike this system. One individual holding that view testified:

> *There is no adequate public defender system in San Juan County [or] for that matter, [in] the whole State of New Mexico. Only those who can afford justice go free. (vol. 3, p. 59)*

Judge Marcum testified at the open meeting that Navajos in his courtroom had often pleaded guilty in cases where he had reason to believe that they were innocent. He attributed this to a lack of understanding of the judicial process. In discussing one case where a young Navajo boy wanted to plead guilty, he stated:

> *The boy understood perfect English, but I still didn't feel he knew what he was pleading guilty to....That has happened many times. (vol. 1, p. 255)*

According to Judge Marcum, under these and similar circumstances, he often refuses to take a guilty plea and advises the individual to contact an attorney or public defender. The judge described his role as "making sure that they are accorded their rights and know what they are pleading to." (vol. 1, p. 255)

When a felony is involved, the case is automatically sent to the Eleventh Judicial District Court for New Mexico located at Aztec, the county seat. District Court Judge Frank B. Zinn, stated in an interview that he was more careful in appointing an attorney for an indigent Indian than for anyone else because they had more difficulty understanding what was going on during a trial:

> *We have had buglary situations where, from a lack of understanding, Navajo people have pleaded guilty to crimes they haven't committed. You have to dig real deeply to make sure they understand what they are doing.*[74]

This was further corroborated by a Navajo who stated at the open meeting:

> *Too many Navajos have pleaded guilty to various charges without really understanding the consequences, without really having access to adequate legal representation and without really knowing what they are getting into. I have seen many brothers and sisters pleaded guilty in many cases to charges that they didn't even violate. (vol. 3, p. 58)*

Judge Zinn commented that to help promote understanding during judicial proceedings, a full-time professional translator was available at all times in his courtroom. He expressed his disfavor with having nonprofessionals translate for defendants in a court of law:

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74. *Judge Frank B. Zinn, interview in Aztec, N. Mex., Aug. 2, 1974.*

> *It is a rotten idea. You don't know what he is going to say nor do you know how good he is. This business of interpreting isn't simply a matter of understanding both languages. He also has to have some sense, because Navajo is an idiomatic language like Zuni and other languages in our area.*
>
> *There is no literal translation for some of these foolish things we say on the bench; and this pro forma advice of rights doesn't mean a blasted thing unless it is carefully translated. (vol. 3, p. 88)*

At the municipal court level, Judge Marcum testified that all translation is done by trustees at the jail. In cases of extreme difficulty, a Navajo woman who works for the court usually interprets for defendants.

Some legal assistance to low-income families in San Juan County is also provided through the Economic Opportunity Council, the local community action agency. Howard L. Graham, an attorney who works with the agency, noted that the number of Navajos that come in to seek assistance is limited because of their difficulty in communicating with Anglos. He also pointed out that it is a natural phenomenon for people with a different language from the majority to feel more comfortable with people who can communicate with them in their mother tongue, especially when they are under emotional stress and pressure as people seeking legal advice often are. For this reason, he added, many Navajos prefer to go to the DNA office in Shiprock.[75]

DNA, Navajo Legal Services, is funded mainly by the Federal Office of Economic Opportunity (OEO). At the present time, DNA has 21 attorneys on its staff. OEO, however, has placed certain restrictions on the type of cases that DNA can handle. Additionally, all clients must meet DNA's financial criteria. Only civil cases can be undertaken by the DNA. When a Navajo is arrested off the reservation for a criminal offense, DNA services are not usually available to him. (vol. 3, p. 281)

The municipal court in Farmington has concurrent jurisdiction with the magistrate court for all misdemeanor cases other than high misdemeanors. According to Judge Roy Marcum, Farmington residents who are involved in a judicial proceeding will, in all probability, appear in municipal court, as it handles the greatest caseload and has jurisdiction up to $300 and/or 90 days in jail. Because of allegations that Navajos in Farmington were fined often and assessed greater fines

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75. Howard L. Graham, interview in Farmington, N. Mex., June 26, 1974.

than their Anglo counterparts for similar violations, Commission staff undertook a comprehensive study of the fines and sentences assessed by the municipal court for a period ranging from July 1973 to June 1974. The study was limited to ten misdemeanor categories having the greatest number of cases. These include: drinking in public, illegal possession of alcohol, disturbing the peace, driving while intoxicated (DWI), other traffic violations, disorderly conduct, public affray, loitering, assault and battery, and shoplifting. (See Appendix A)

During this period, Native Americans were overrepresented in the number that were assessed monetary fines. Of the 627 individuals who were fined, 494 or 79 percent, were Indians. Table 1 in Appendix A indicates that the number of Native Americans fined was significantly larger than any other racial/ethnic group in all the 10 categories studied with the exception of other traffic violations. In this category, there was an equal number of fines for both Anglos and Indians.

The exact figures, reflected by Table 1, show the following: drinking in public had a total number of 92 fined, 89 of whom were Indians. In this category, the number of Anglos arrested for drinking in public is negligible while Native Americans comprise 99 percent of those arrested. Lieutenant Rodgers attributes this to the fact Indians were not allowed to drink inside local bars until 1957. Since liquor was not allowed on the reservation, Indians were forced to consume all their liquor before going home. (vol. 1, p. 187)

For illegal possession of alcohol, there was a fairly even distribution. Of the 69 fined, 26 were Indians, 24 were Anglos, 18 were Spanish Americans, and 1 was black. The assessment of fines was also equally distributed. Of the 26 fined for disturbing the peace, a substantial number were Indians and only four were non-Indian. In the category of driving while intoxicated (DWI), 69 of the 84 fined were Indians as compared to 12 Anglos. Those receiving the highest fines for DWI were disproportionately Indians as 44 were fined in the range of $150-$199 as compared to five Anglos and one Spanish American. In addition, 20 Indians were fined $200 or more as opposed to 4 Anglos and 1 black for this offense. (See Appendix A, Table 1)

In the category including reckless and careless driving offenses, and classified as other traffic violations, there were a total of 22 individuals fined. Ten Anglos, 10 Indians, and 2 Spanish Americans were fined. A total of 92 were assessed a fine for disorderly conduct. Of these, 80 were Navajos. The highest fine in this category for Anglos was $49 while the highest fine for Indians was $149. Public affray also has an overrepresentation of Indians as 75 of the 91 fined were Navajos. The highest fine for all groups was within the same

$50-$99. Those detained for loitering include 48 Indians and 9 Anglos for a total of 57. In assault and battery, 17 were fined and 16 of these were American Indians. Of those fined for shoplifting, 54 were Indians, 6 were Anglos, 5 were Spanish Americans, and 1 was black. The highest fine assessed in four cases was $100-$149. And in all four cases, it was an Indian who received the fine. (See Appendix A, Table 1)

Judge Roy Marcum refuted the allegations that Native Americans were fined more often and received higher fines than any other racial or ethnic group. Judge Marcum labeled the allegation as "ridiculous" and stated that he didn't know what the practice was prior to the time he was elected but that he was impartial in the assessment of fines.[76] (vol. 1, pp. 256-257)

Staff investigation of the police ledger and the municipal court records also indicated that more Native Americans served time in the city jail than did any other group. Of the 154 individuals who served time in jail pursuant to municipal court decisions for the period of July 1973 to June 1974, a total of 148 or 95 percent were Indians. As Table 2 in Appendix A shows, in 6 of the 10 categories, i.e., drinking in public, illegal possession of alcohol, public affray, loitering, assault and battery, and shoplifting, the majority of those who served time were Indians. The category of disturbing the peace had a total of two individuals and one of these was an Indian. Of the 17 who were arrested for driving while intoxicated, 16 were Native Americans, as were 16 of the 17 who were in jail for disorderly conduct. In other traffic violations there were six Indians among the nine serving time in jail.

In 8 of the 10 categories, the highest number of days to be served was assigned to an Indian. In one of the categories, there was an equal number of Anglos and Indians serving the same time. In the other categories, Indians received a sentence of 30 days while only one Anglo had to serve this sentence.

These findings may be due to the fact that it is a common practice in the Farmington municipal court to allow individuals who are sentenced to serve a number of days to convert these to a money sum and pay this amount to the court in lieu of serving time in jail. (vol. 1, pp. 253-354)

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76. *Judge Roy Marcum took office as municipal judge on Mar. 18, 1974. The study covered a period ranging from July 1973 to June 1974.*

Judge Marcum responded to these findings by explaining that under the present system, individuals who are freed are released upon signing an agreement to pay the fine; if they fail to do so within a reasonable time, then a bench warrant will be issued and they will have to serve time in jail.[77] According to Judge Marcum:

> *This could account for more of the Navajos serving time on bench warrants because more of the Navajos don't pay the fine than do the whites I have encountered since I have been judge. (vol. 1, pp. 258-259)*

Witnesses also indicated that few if any Navajos serve on petit and grand juries. The present system for selecting jurors for petit jury for the district court in San Juan County consists of choosing at random 10 percent of the registered voters from the last general election. These names are obtained by taking every tenth name on the precinct lists beginning with a different number each time. Each name is then placed on a slip of paper and placed in a master jury wheel from which the names are drawn as needed. According to Emma Jean Hottell, district clerk of San Juan County, since the State passed a law in July 1973 abolishing most of the exemptions under which individuals could be excused from service, the excuses offered for requesting non-service are being scrutinized very closely. For example, if illness is used as an excuse, then a doctor's certificate is required; and often the doctor will be called by the clerk to determine ineligibility. Language is a valid excuse only if it can be proven that the individual in question is actually unable to comprehend English.[78]

According to an analysis of jury selections by Commission staff for the year 1973-74, a total of 3,005 names were selected, which

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77. *A "bench warrant" is a warrant issued by the court itself or "from the bench" for the attachment or arrest of a person either in case of contempt or where an indictment has been found, or to bring in a witness who does not obey a subpena.* Black's Law Dictionary *198 (4th ed. 1968).*

78. *Emma Jean Hottell, district clerk, San Juan County, interview in Aztec, N. Mex., Aug. 2, 1974. N. Mex. Stats. Ann. ch. 19, §1(2) (Supp. 1973).*

represents 10 percent of the registered voters in the San Juan County precincts. Of the total, 357 (11.9 percent) were from voting precincts on the Navajo Reservation; for all practical purposes, it can be assumed that they were Navajos. Of 3,005 names, 374 were drawn from the master jury wheel. Seventy eight or approximately 21 percent were from reservation precincts. However, only eight or about 10 percent of those drawn from the reservation precincts actually served on a jury during the year.

Judge Zinn testified at the open meeting that one of the problems that Indians face in serving is that to be a juror, one must be able to read and write English. Given the situation in San Juan County where there is such a diversity in the languages spoken, he added, it is almost impossible to accommodate jurors with multiple translations. (vol. 3, p. 70) Therefore, in San Juan County, if a potential juror is unable to communicate in English (most of whom are Navajos), he or she is excused from jury service.

Judge Zinn and his staff undertook a survey to determine how many Indian jurors actually participated in trials during the last 18 months (January 1973 to June 1974). They discovered that there were 20 criminal trials conducted during that period and that only 11 Indians served on these juries. (vol. 3, pp. 71-72)

The grand jury is selected by using very much the same system as is used in selecting petit jurors. In January 1973, of the 25 people who were qualified to serve on the grand jury, only three or 12 percent, were of Indian origin. In June of 1973, of the 20 who qualified, only two or 10 percent, were Native Americans.[79]

The redress of grievances through the courts has a major impact on the quality of justice produced by the entire criminal justice system. Some Navajos, however, believe that the courts do not offer effective redress. Instead, there appears to be a pervasive sense of futility concerning the "white man's system of justice" among Navajos living in the Farmington area. This sense of futility is perhaps best typified by the recent trial of the three Anglo youths accused of murdering three Navajos.

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79. *The jury lists of the District Court for San Juan County were used to obtain the names of those who served on the grand jury. The identification of those individuals who were of Indian origin was obtained from the personal knowledge of the District Clerk Emma Jean Hottell, since no formal designation by race is made on the courthouse records.*

In early May 1974, three Anglo teenagers were arrested by the Farmington police and subsequently charged with the murders of three Navajo men. The case was ultimately turned over to Byron Caton for prosecution. At the open meeting Mr. Caton remarked that after examining the evidence and because of the nature of the case, he had filed a motion seeking to have the two 16-year olds tried as adults. The third suspect was 15 years old and could not be tried as an adult under any circumstances. (vol. 3, p. 212)

On June 7, 1974, a hearing was conducted before District Judge Frank B. Zinn at the county seat in Aztec to determine what action should be brought against the three youths accused of the triple slaying. The prosecutor had attempted to have two of the youths tried as adults. His motion was subsequently denied as the New Mexico Juvenile Code requires that before a 16-year old can be tried as an adult, it must be proven that he is not amenable to treatment in a psychiatric institution.[80] The youths were examined by three psychiatrists who testified at the hearing that in their professional opinion they were not insane according to New Mexico law and that they did not require hospitalization in a State hospital. Mr. Caton called the director of the Springer School for Boys to the stand, and he testified that they were amenable to treatment. The motion to try the two teenagers as adults was thus denied. One of the youths pleaded guilty, the other two were tried and found guilty. (vol. 3, p. 214)

According to Mr. Caton:

> *They were convicted of murder by torture, which, under our code, is a delinquency act. It is a delinquency act, the same as illegal possession of alcohol would be a delinquency act.*
>
> *The juvenile code does not distinguish between the acts. They were convicted of murder by torture and they were ordered to custody of the boys school at Springer, to remain there until the authorities in Springer determined they would be released. (vol. 3, p. 214)*

The youths must remain at Springer at least until they are 18, but not beyond their 21st birthday.

Mr. Caton testified that he was not satisfied with the outcome and stated that he felt that New Mexico needed to adopt a model sentencing code definition of dangerous persons:

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80. N. Mex. Stats. Ann. ch. 13, §14 (27) (1973).

> *If a juvenile, whatever his age, falls within the definition of a dangerous person, a person who is likely to commit a crime involving violence to another person, we would have the option to transfer him into the adult division of our court system and handle him there. (vol. 1, p. 221)*

The feeling of witnesses at the open meeting was one of anger at the sentences that the teenagers received after being convicted of the murders. Mr. Caton commented that it was unlikely that the youths would ever be bound over for adult criminal prosecution because of a recent New Mexico death penalty law which would require mandatory capital punishment if they were convicted. In his words, there "is no contemplation of any punishment."81

Perhaps the most significant observation made by Navajo witnesses at the open meeting concerning the administration of justice in Farmington and San Juan County is their lack of confidence in officials who administer the laws. Many segments of the Navajo community, for example, are convinced that law enforcement officials are not sufficiently responsive to their needs. This lack of confidence is also directed at the courts. To some, this lack of confidence has reached crisis proportions.

It is difficult to overstate the importance of the relationship between the police and the community, especially the minority community. Police officers by the very nature of their work are required to deal effectively with all segments of the population. In Farmington, this is not always true.

Police work is often complicated by the fact that policemen must deal with people who are often threatening and vulnerable, who are under tension, and who are sometimes confused. Consequently, police action, both individually and collectively, has a direct impact on a person.

Carrying out with proper efficiency and discretion the often complicated law enforcement, community service, and judicial functions within a community is a formidable task even under the best of curcumstances. These functions can be undermined by a lack of understanding or a basic distrust of both the police and the courts. In many respects, this is the situation in Farmington vis-a-vis the Navajo community. It is overwhelmingly a problem of relations between the Navajo people and the whole system relating to law enforcement and the courts. Information received by the Advisory Committee suggests that many Navajos do not believe that the police or the courts in Farmington are the protectors of their rights.

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81. Byron Caton, interview in Farmington, N. Mex., July 18, 1974.

ALCOHOLIC REHABILITATION AND THE DELIVERY OF MEDICAL SERVICES TO NAVAJOS IN THE FARMINGTON AREA: THE UNMET NEEDS

Alcohol abuse and alcoholism and inadequate medical services have become literally life and death issues among the Navajo people. Complaints received by the Advisory Committee and Commission staff, and voiced by participants in the open meeting, underscored what are probably the most important concerns among Navajos living in the Farmington area.

Many private citizens and some public officials at the open meeting suggested that the city of Farmington has not responded to these issues in any meaningful way. City officials and a number of community leaders have taken the position that either the problems do not exist or that the city has neither the funds nor the personnel to significantly alleviate these problems. To many Navajos, however, these problems cannot be put off so lightly.

The gravity of the present situation is typified by the following statements made at the open meeting:

> *Alcoholism, we look at it as being the number one killer of Navajo people in San Juan County. In fact, because of alcohol, a certain section of highway between Farmington and the reservation has been called by the white people of this county as 'Slaughter Alley' because so many Navajo drunks are killed there. (vol. 1, p. 47)*

> *At this moment, I do not feel competent that I can send one single Navajo patient to any doctor with a Medicaid card here and feel assured that this card will be honored. (vol. 2, p. 51)*

> *I am aware of some surveys that have been done by individuals in the last couple of years...which revealed that many doctors are hostile to the idea of taking Navajo patients....In general, private medical care is available to Navajos only on a very limited basis in Farmington. (vol. 3, p. 151)*

Wilbert Tsosie, a member of the Coalition for Navajo Liberation, told the Advisory Committee of the situation at the Shiprock Public Health Service/Indian Health Service (PHS) Hospital located on the Navajo Reservation:

> *Shiprock PHS Hospital should be forced to close down until decent services and decent facilities are implemented. The PHS unit in Shiprock, as it now stands, is an insult to the Navajo Nation. (vol. 1, p. 44)*

Another witness, discussing the provision of medical and health care to Navajos, said:

> *...existing health facilities on the reservation are badly understaffed and overcrowded, and given the fact that...private facilities off the reservation may well be unavailable to Navajos this poses a very threatening picture to the health and well-being of the Indian population throughout this area. (vol. 3, pp. 152-153)*

One of the most critical issues to emerge out of the open meeting was the lack of any effective program in Farmington or on the reservation, to deal with the tremendous alcohol-abuse among Navajos. Witnesses at the open meeting noted that there are no detoxification or rehabilitation centers of any kind in the city or in the county. And there is little or no citizen input as far as seeking solutions to the problems of alcoholism in San Juan County and Farmington. One witness asserted:

> *There is no concern from the city government nor from the mayor, nor for that matter, from the State or tribal leaders; they don't sit down and try to talk alternatives and seek new solutions to the alcohol-abuse problem...that is so prevalent in Farmington. (vol. 1, pp. 48-49)*

Winnie Heron, former field representative for the New Mexico State Commission on Alcoholism, was asked by the Advisory Committee

whether the community of Farmington was supportive of rehabilitative services for alcoholics. She replied:

> *No, I don't think they have supported rehabilitative services for alcoholism. I don't think they have supported it for the Anglo, nor, do I think they have supported it for the Navajo. (vol. 2, p. 30)*

A review of the Farmington police records by Commission staff revealed the magnitude of the alcohol-abuse problem among Navajos. Over a 5-year period (1969-1973), for example, nearly 21,000 Navajos were arrested by Farmington Police. Slightly more than 85 percent of those arrested were for alcohol-related offenses. Since the passage of the Detoxification Act in 1973, approximately 4,000 protective custody cases have been handled by the city police. More than 90 percent of the cases involve Navajos.[82]

While generally agreeing with the intent of the Detoxification Act, many witnesses felt that it has actually made the problem worse. Lt. Don Rodgers of the Farmington Police Department believed that the act has proved to be harmful to alcoholics because, "It is killing them off."[83] As soon as a person is sober, he said, he is released and consequently does not have enough time for his "system to dry out." Under the old procedures, alcoholics were kept in the jail, fed properly, and kept away from alcohol for several days.[84]

> *It should be noted that this department concurs with the obvious objectives of the act in its treating of alcoholism as an illness and not a crime. However, it is likewise obvious that proponents of this bill have failed to research jail statistics on recidivism and delirium tremor rates, and have consequently overlooked some serious obstacles to implementing the bill....(vol. 1, p. 153)*

One serious criticism of the act is that while it encourages the development of detoxification centers, the State has provided almost no money to make these centers operational.[85] In this context, Judge

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82. U. S. Commission on Civil Rights, Southwestern Regional Office, - The Administration of Justice in Farmington and San Juan County - An Interim Report (Aug. 1974). See also Appendix A.

83. Lt. Don Rodgers, interview in Farmington Police Department, Farmington, N. Mex., July 18, 1974.

84. Ibid.

85. Wilbur D. Connelley, outreach supervisor, New Mexico Commission on Alcoholism, interview in Albuquerque, N. Mex., June 28, 1974.

Roy Marcum, municipal court judge for the city of Farmington, commented:

> *I think the legislature made a lot of mistakes when they made a law and then provided no money and provisions to take care of these persons who are actually ill. (vol. 1, p. 263)*

Although some of the witnesses criticized the State for not providing funding at a sufficient level to develop detoxification centers, others criticized the lack of action at the local level. Mrs. Heron, for example, felt that the main problem in trying to combat the alcoholism situation is the attitude of Anglos in Farmington:

> *First of all, the community is not well educated on the problems of alcoholism, and there are very definite stigmas attached to anyone known as an alcoholic. The community's fear of this unknown quantity has led Farmington citizens to ignore the alcohol problems in the hope that they will disappear.*[86]

She also believed that the community had a very negative attitude toward the idea of a halfway house in Farmington. Many Anglos, she felt, oppose this type of facility in their neighborhoods because they believe that such a place would house perpetually drunk people which, in turn, would create many social problems and public safety hazards. Mrs. Heron emphasized that this fear was largely unfounded because, unlike a detoxification center, a halfway facility does not house inebriated people, but people who have dried out and are seeking rehabilitative treatment.[87]

Although there has been a general lack of official initiatives, there are a number of programs operating in the area specifically designed to help those people having problems with alcohol abuse and alcoholism. The Municipal Court Rehabilitation Program (MCRP), for example, has provided alcoholic counseling services for court defendants on a volunteer basis since 1970. There are also a number of local groups concerned with alcoholism, the most notable being Alcoholics Anonymous. On the reservation, the Office of Navajo Economic Opportunity (ONEO) , funded in part by the Navajo Tribe, operates an Alcoholic Education and Rehabilitative Program on the reservation.

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86. Cletis (Winnie] Heron, interview in Farmington, N. Mex., July 30, 1974.

87. Ibid.

In November 1971, with considerable impetus from the MCRP, the Totah Council on Alcoholism of San Juan County, Inc., (TCA) was formed by a number of concerned citizens to promote public education, prevention of alcoholism, and alcoholic rehabilitation. In 1973 the TCA became an affiliate of the Association of Halfway House Alcoholism Programs of North America and also the National Council on Alcoholism.

In August 1972 the New Mexico Commission on Alcoholism established a field office in Farmington to help the county develop programs to combat alcoholism. However, because of recent funding cutbacks, the Commission on Alcoholism has been forced to curtail much of its field activity. Early in 1974 the Commission's field office in Farmington was officially closed.[88]

Perhaps one of the most controversial programs geared to the treatment of alcohol abuse in Farmington is Municipal Court Rehabilitation Program (MCRP). The program was initiated by the San Juan Episcopal Mission in Farmington and now operates through the municipal court. The director of the program is appointed by the municipal court judge with the approval of the city council.

On December 12, 1970, the program was recognized by the city as an integral part of the municipal court. Funding for the MCRP became available through an exploratory 2-year pilot grant from a private foundation in May 1972. (The grant was renewed for another 2 years in May 1973). In July 1972, the city of Farmington budgeted $1,500 annually to the MCRP. The program has been extended through 1975.[89]

Since its inception, the MCRP has provided counseling services to more than 3,000 individuals incarcerated in the municipal jail. The vast majority have been Navajos. An additional 300 individuals who have been convicted of driving while intoxicated (DWI) have been assigned to special courses required by the judge. These classes begin every second month and consist of four evening sessions. Although more than 40 percent of those assigned to DWI classes were Navajo, no provision was made to conduct classes in Navajo for those who are non-English-speaking. Another 160 individuals have been referred to State-operated detoxification centers located in Albuquerque and Roswell.[90]

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88. Ibid.

89. Farmington, N. Mex., Municipal Court, MCRP - Municipal Court Rehabilitation Program: A Review 1970-1974 (March 1, 1974) by Robert O. Parks, pp. 2-3.

90. Ibid.

In May 1974 Judge Roy Marcum recommended to the city council that MCRP be terminated. He believed that the program was ineffective, especially in terms of repeaters who completed the course and yet returned to court for alcohol-related crimes. In an article in the Farmington Daily Times, Judge Marcum stated:

> *What I feel is needed in regard to crimes, which not only include driving while intoxicated but assault and battery, larceny, and marijuana involvment is punishment.*[91]

In place of the MCRP, Judge Marcum recommended that all persons arrested for alcohol-related crimes be placed under a probation officer who would have direct control over their behavior. He also felt that monies should be used to establish a detoxification center in Farmington where alcoholics could obtain help before they commit crimes and come in contact with the court.[92]

Bob Parks, then director of MCRP, took issue with Judge Marcum's recommendation, stating that since the judge had been in office only 2 months, he was not qualified to pass judgment over the program nor did he take any initiatives to carefully examine the program. After some deliberation the city council decided to refund the program in June 1974. Mr. Parks, however, was subsequently terminated as director of the MCRP by Judge Marcum. At the time of the open meeting in late August 1974, MCRP was not functioning because of insufficient staff.

The Totah Council on Alcoholism (TCA) at its inception debated the need for the detoxification center in San Juan County and the feasibility of its establishment. The need was concluded to be supportable; its realization in the foreseeable future was not, largely for reasons of its expense. Accepting this limitation, TCA determined that the establishment of a co-educational halfway house was more realistic. TCA began negotiations with San Juan County for the transfer of approximately two acres of land adjacent to San Juan Hospital for the construction of a halfway house. The TCA has also asked the Farmington city council to consider leasing to the Totah Council a tract of land equivalent to that provided by the county. This would be used to accommodate a TCA halfway house, San Juan Mental Health Service Headquarters, and a small office building for San Juan Citizens Against Drug Abuse. While the city has committed the land,

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91. Farmington Daily Times, "Marcum Opposes Rehab Program" May 30, 1974.

92. Ibid.

the facility has not been constructed. The hold-up, according to Mr. Parks (now the current executive secretary for TCA), is the location of the land. The Totah Council wants a good environment and not a site located near the slums and the city dump.[93]

Mr. Parks, himself a former alcoholic, told the New Mexico Advisory Committee that a massive public education program is needed in Farmington to relieve the major problems caused by alcoholism:

> *What I mean by education is the communication, in an exhaustive way, of the nature of alcohol, alcohol abuse, alcoholism, and the effects that the use of alcohol has on every aspect of the individual's life. (vol. 2, p. 38)*

Regarding the problem among Navajos, he said, a great deal of this educational work must begin with family education. The reason for this emphasis, is that while the Navajo family structure is very cohesive, pressures from the family group on the individual member suffering from alcoholism are not apt to be very strong. Consequently, the dependence on alcohol becomes very difficult to break, he said. (vol. 2, p. 38)

Another way to counter the admittedly difficult problem of alcohol abuse and alcoholism in Farmington would be to establish a sleep-in facility. Mr. Parks pointed out that such a facility would serve mainly as a place where people can come or be brought by police to sleep it off. The facility, ideally, would also provide some kind of medical service. But above all, he added, they would receive sympathetic handling by people who care, a situation that does not now exist. (vol. 2, p. 39)

The cost of such a facility, according to Mr. Parks, would depend on its size. He felt that the city of Farmington could easily make use of a sleep-in facility that could accommodate up to as many as 50 persons, both men and women, every night. (vol. 2, p. 40)

Mayor Marlo Webb, in his testimony before the Advisory Committee, made the following observations regarding the establishment of a sleep-in facility and detoxification center in Farmington:

> *It has been suggested that sleep-in facilities... be utilized rather than city facilities [the*

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93. Bob Parks, interview in Farmington, N. Mex., July 15, 1974.

> *municipal jail]....We must remember that regardless of where we take them they are inebriated persons and are sometimes often very violent. They are going to have to be protected from themselves. Under the law, as we understand it, regardless of the type of facilities, they will have to be released within 12 hours unless they volunteer to sleep in....(vol. 3, p. 23)*

This, he felt, would merely duplicate costs and facilities that the city already provides.

Mayor Webb also noted that on the basis of testimony he had heard during the two days of open meetings:

> [We are] *going beyond the sleep-in facility. We are approaching the concept of a detoxification center and I understand there are already two or three in the State at the present time and that such a center requires a great deal of money...and professional assistance to put it together. (vol. 3, p. 23)*

Mayor Webb could not propose any long-range solutions to very real problems:

> *I really don't have a solution. I do propose, as we discussed in the last couple of days, that maybe a joint venture with the Navajo Tribe would be possible, but I don't think the city of Farmington is adequately funded or has access to resources or personnel to do it by itself. (vol. 3, p. 23)*

Despite the intensity of feelings towards alcohol abuse and alcoholism, particularly among Navajos, the problems go much deeper. As Richard Hughes, an attorney for DNA, noted:

> *Alcoholism among Navajos is a pervasive and very profound problem. It is not going to be solved in rehabilitation centers and a meeting. I don't know if there is any way to repair the psychological damage to a race that has simply lost its place, to people who simply have lost their identity and know they are in a society that has no place for*

> *them. I don't know if that damage can ever be repaired. And it is very unfortunate that our society has made access to alcohol so easy...a solace for these people who can't face the grim and very unhappy reality of the situation. But I do know that...the deplorable brutality that is done to Navajo alcoholics who are fed this poison until they become little more than animals and whose worse instincts are cultivated by bar owners and operators. That, it seems to me, is an evil that can and should be attacked with all the vigor than anyone can bring to bear. (vol. 3, pp. 160-161)*

Closely related to the problems of alcohol abuse and alcoholism among the Navajo people in Farmington is the critical issue of health care services, or, in some cases, the lack of it.

Ideally, the Navajo people in the Farmington area can avail themselves to two hospitals: the San Juan Hospital, a private, non-profit institution located in Farmington, and the Public Health Service/ Indian Health Service (PHS) Hospital, located 30 miles away in Shiprock. Gerald Conley, chief administrator of the Shiprock facility, noted that the PHS hospital is inadequately staffed and underfunded and is not easily accessible to the Navajo people living both on and off the reservation. (vol. 2, p. 92) The San Juan Hospital is a private institution and for the most part, economically prohibitive to indigent Navajos.

Statistics alone cannot give the whole picture of the present health care situation in the county. It also depends to a large extent upon the attitudes of the people in charge of providing health care services. Although private physicians in Farmington and San Juan County are aware of the health problems among Navajos, there is also a tendency to ignore them. Furthermore, despite the critical nature of the problem, there appears to be little or no cooperation between medical facilities and personnel on the reservation and the private medical community in Farmington.[94]

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94. *Susan Bogle, A Review of Potential Professional and Community Support for a Comprehensive Health Clinic, San Juan County/New Mexico. Resources Development Internship Program, Western Interstate Commission for Higher Education (Boulder, Colo., 1973), p. 15.*

In 1973 the medical community serving San Juan County consisted of 70 doctors and 18 dentists, most of whom were concentrated in the Farmington area. Of the 70 doctors, there were 3 in the community of Aztec and 16 at the PHS Hospital at Shiprock.[95]

San Juan Hospital is a private institution on lease to medical doctors who practice in the community. Presently, the facility has 113 beds; an average daily census of 65 patients or about 5,000 annual admissions; and an average inpatient stay of 5 days duration. The hospital offers outpatient x-ray, laboratory, physical therapy, emergency room service, cystoscopy room, urology unit, coronary and cardiac equipment, but no geriatric facilities or psychiatric staff or ward. The institution, at the present time, is being modernized and enlarged.[96]

The staff consists of 33 physicians and 185 other medical personnel. Each physician has the responsibility for handling his or her own patients regarding payment for services, medication. The hospital has no central billing office. There are nor resident doctors nor are there any interns at the hospital.[97]

The overall policy of the hospital is governed by a Corporation Membership which consists of about 40 private citizens drawn from various community organizations in San Juan County. The day-to-day affairs of the corporation are conducted by a Board of Directors consisting of nine elected members from the corporation, a member of the Board of County Commissioners, the chief and vice-chief of the hospital medical staff, and the president of the Hospital Auxiliary.[98]

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95. Ibid., p. 16.

96. Charles M. Martin, chief administrator, San Juan Hospital, and Gene Keaton, assistant administrator, interviews in San Juan Hospital, Farmington, N. Mex., Aug. 8, 1974.

97. Ibid.

98. San Juan Hospital, Inc., By-Laws of San Juan Hospital, Inc. (May 29, 1974).

The Board of Directors has six standing committees: policy and finance committee, building and grounds committee, professional committee, joint advisory committee, community relations committee, and trust committee. The board also selects and employs the hospital administrator. The administrator carries out the policies of the board and its various committees. This person also acts as the "duly authorized representative" of the governing board in all matters in which the board has not formally designated some other person for that specific purpose.[99]

The services provided by these physicians and facilities are generally available only to those capable of paying the applicable fees. Given the absence of any other viable alternatives, the problem of securing medical services is acute for low-income people and Navajos living off the reservation. One report prepared by a research consultant[100] was especially critical of the kinds of medical care provided to these population groups by the private medical community in Farmington and San Juan County:

> *The San Juan Hospital is what is often referred to as a doctor's hospital. It is a private, profit-seeking venture. It is not operating with a primary orientation for the patient but to make a profit and to be a convenience to the doctors and lastly, [to] its patients.*
>
> *A health survey indicated that 5.62 percent of the poor households have had members of the household refused hospital admittance because of their inability to pay. Also, to be admitted to the San Juan Hospital requires physician approval. Physicians are skeptical about referring medical assistance to patients who might be unable to pay.*[101]

Tim Duran, county director for the State Public Assistance Agency, confirmed the above in an interview with Commission staff. He stated that according to the reports he receives from his clients, about 95

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99. Ibid. See articles v-vi, pp. 5-8.

100. Dennis Tanner, Preliminary Study for a Comprehensive Health Clinic for Low Income Persons of San Juan County, New Mexico, Resources Development Internship Program, Western Interstate Commission for Higher Education (Boulder, Colo., 1972).

101. Ibid., p. 4.

percent of the doctors in Farmington do not accept Medicaid -- a Federal program designed to provide medical treatment to low-income people -- as a basis of payment. Mr. Duran also stated that doctors often use the excuse that repayments are slow and create a heavy paper workload for their staff.[102]

Ken Rustad, director of the Economic Opportunity Council (EOC), the local community action program for San Juan County, told Commission staff that local doctors oppose any hint of "socialized medicine" and, in many cases, no longer cooperate with health insurance plans. They cite, among other things, he added, delayed payments, inconsistent rates for services and payment procedures, as well as professional interference as the main reasons for not participating in these programs.[103]

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102. Tim Duran, county director, State Public Assistance Agency, San Juan County, interview in Farmington, N. Mex., July 16, 1974.
Note: Under the Medicare Program [42 U.S.C. §1395 et seq. (1965)], hospital insurance is provided free to all eligible recipients. This insurance provides for 100 percent coverage of the first 20 days of nursing home care and 100 visits for home health care. The patient is responsible for a maximum of $72 for the first 60 days and $18 per day for the next 30 days. In San Juan County, about 85 percent of the Medicare cases maintain this coverage; over 80 percent of these recipients are Navajo.

Medicaid [42 U.S.C. §1396 et seq. (1973)] benefits are limited to persons receiving benefits under certain welfare programs. All persons, however, receiving financial assistance are not eligible for Medicaid coverage. Medicaid eligibility may be available to a welfare recipient but may not extend to other members of the immediate family. Most persons covered by Medicaid are recipients of financial assistance from either aid to the aged, blind, and disabled, or to families with dependent children.

According to the State Health and Social Services Department (HSSD), financial assistance in San Juan County varies between 6 and 7 percent. A large percentage of this assistance goes to Navajos. Given the crowded conditions at Shiprock PHS, it is possible for Navajo patients to be admitted to San Juan Hospital for care, and for the local facility to recover costs via Title XIX funds. Source: Susan Bogle, A Review of Potential Professional and Community Support for a Comprehensive Health Clinic, San Juan County/New Mexico, for Resources Development Internship Program, Western Interstate Commission for Higher Education (Boulder, Colo., 1973).

103. Ken Rustad, director, Economic Opportunity Council, San Juan County, Interview in Farmington, N. Mex., July 15, 1974.

Mr. Duran, at the open meeting, described some of the hardships experienced by welfare recipients seeking medical assistance:

> *These low-income people have a very hard time to find a doctor right here in Farmington, right here in San Juan County, who will honor the Medicaid card. The Medicaid card authorizes money from our Medicaid fund to pay for their care. So on many occasions, we have welfare recipients come in telling us, 'who will honor my card? I am a sick person, I cannot find a doctor that will provide the medical attention that I need with this card.' (vol. 2, p. 52)*

The problem of securing medical services in Farmington remains a serious one for Navajos who reside on the reservation and in the surrounding areas off the reservation. Many doctors in Farmington, Mr. Duran stated, often tell him to direct his Navajo recipients to go to the hospital at Shiprock, which is 30 miles away, to receive free medical care. (vol. 2, p. 53)

One witness, testifying before the State Advisory Committee stated:

> *The local San Juan Hospital has refused, continuously, services to the Navajos in need of medical attention. It is the contention of the San Juan Hospital that Navajos should go to the...Public Health Service in Shiprock, no matter how much medical attention is required. (vol. 1, p. 44)*

An attorney with the DNA Navajo Legal Services Program in Window Rock, Ariz., told the Advisory Committee that on August 29, 1974, the DNA filed a suit on behalf of two Navajo clients in Federal Court against San Juan Hospital in Farmington. The suit alleged that:

> *...San Juan Hospital follows a policy and practice of refusing to render emergency medical care to Navajos in the Emergency Room, on the same basis and to extent it would*

render similar care to non-Indians in similar circumstances. (vol. 3, p. 149)[104]

There are two specific complaints included in the suit. One complaint concerns a Navajo woman who was taken to the emergency room at the San Juan Hospital in February 1974 with multiple stab wounds.

After being rendered some care, treatment was allegedly terminated before her condition stabilized, and she was transferred to the PHS Hospital in Shiprock 30 miles away. The suit alleges that because of the subsequent delay in providing life-saving services occasioned by this transfer, the patient died after arriving at Shiprock. The suit further alleged:

...that the transfer to Shiprock was part of the policy and practice of the San Juan Hospital to refuse care to Navajos. (vol. 3, p. 150)

The second incident cited in the suit involves a Navajo woman who was injured in an accident. She was immediately taken to the emergency room at San Juan Hospital. Upon entering the emergency room, she was told that because she was Navajo, she would have to go to the PHS Hospital in Shiprock, which was almost twice as far from her home. The woman was subsequently hospitalized for several days at the Shiprock facility and released. Shortly thereafter, the injury developed an infection and her family again took her to the San Juan Hospital for treatment. Again, the suit alleges, she was

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104. *The emergency room at the San Juan Hospital is often the initial point of entry for many new patients into the health delivery system at the hospital. At this point, the first contact with a doctor is made. To be admitted to the hospital requires the approval of a physician. Proof of ability to pay for services is usually requested of the patient prior to admittance. Crisis care, involving extreme trauma, is usually handled by the physician on duty in the emergency room on an as need basis.*

In an open court decision rendered on Nov. 15, 1974, U. S. District Court Judge Vearle Payne in Albuquerque dismissed the $750,000 class action suit against San Juan Hospital, as well as denying both temporary and permanent injunctions asking for the elimination of discriminatory policies against Navajos by the hospital. Penn et al, v. San Juan Hospital, Inc., Civil No. 74-419 (D.N.Mex., filed Jan. 7, 1975).

told to go the Shiprock for treatment and was not allowed to see a doctor. The suit alleges that this practice was part of the overall policy of the hospital to refuse care to the Navajos in the emergency room. (vol. 3, p. 151)

Stressing the severity of the health care situation for Navajos in the Farmington and San Juan County area, Claudeen Arthur, an attorney with the DNA, stated:

> *The Public Health Service Hospital in Shiprock, and the San Juan Hospital in Farmington, are the only full-scale hospitals in the entire northwestern portion of the State....There is, of course, a large Indian hospital in Gallup, but that hospital is over 100 miles away. The simple fact is that those two hospitals and the private physicians in Farmington, who are the only private physicians in this part of the State, have to serve that entire area. It should also be noted that the vast area between Farmington and Albuquerque contains many thousands of Navajos who are...further from Shiprock than they are from Farmington. (vol. 3, p. 152)*

If the complaints outlined in the suit are true, she added, then essentially half of the emergency health facilities in the county and in the whole northwestern part of the State are cut off from Navajos. This, she asserted, poses a serious health care problem for the Navajo people in this region. (vol. 3, p. 152)

In a bid to counter some of the claims alleging disparate treatment at the San Juan Hospital, Charles Martin, chief administrator for the hospital, pointed out that from July 1, 1972, through June 30, 1973, the hospital admitted 4,869 patients. Of these, 493 or about 10 percent of all patients admitted to the hospital were under Title XVIII (Medicare) and 115 were admitted under Title XIX (Medicaid).[105] From January 1, 1972, through March 31, 1974, he added, over 13,300 patients were discharged from the hospital. Of this total, approximately 1,300 or about 10 percent were Navajos.[106] He further noted that about

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105. Charles Martin, chief administrator, and Gene Keaton, assistant administrator, interviews in San Juan Hospital, Aug. 8, 1974.

106. Charles Martin, letter to Roger Vallejo, Southwestern Regional Office, U. S. Commission on Civil Rights, Aug. 8, 1974.

70 patients are admitted to the hospital for medical services on a daily basis. On the average, about seven of these admissions are Navajos.[107]

On the issue of emergency room treatment, Mr. Martin--taking two months at random -- January and July 1974 - stated that a total of 1,763 people were seen by physicians in the emergency room. Of this total, 407 or approximately 23 percent, were Navajos. More than 260 patients, he added, were admitted to the hospital from the emergency room during these 2 months. Fifty-three or about 20 percent of these patients were Navajos. Table 9 below describes the number of patients seen by doctors in the emergency room and the total number of admissions to the hospital from the emergency room for each of the two months.

Table 9

EMERGENCY ROOM REPORT SAN JUAN HOSPITAL:
January and July 1974

	January 1974	July 1974
Total Patients	879	884
Total Navajo Patients	186(21.3%)	121(13.7%)
Total Admissions from the Emergency Room	145	116
Total Navajo Admissions from the Emergency Room	25(17.2%)	18(15.5%)

Source: San Juan Hospital, Inc., Farmington, N. Mex. Submitted to the record Aug. 30, 1974. (vol. 2, p. 63)

The primary means for providing medical treatment for those patients who cannot afford such care at San Juan Hospital is the Free Care Program and the County Indigent Fund. Some doctors at the hospital do accept Medicaid and Medicare patients. The hospital also receives funds from the PHS under a special contract to provide emergency and specialized care to Indians off the reservation.

The Free Care Program provides free medical services to poverty-stricken patients.[108] The operation of this program is required of hospitals and other health facilities receiving Federal funds under the

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107. Charles Martin and George Keaton, interviews in San Juan Hospital, Aug. 8, 1974.

108. 42 U.S.C. §291(c)(e)(1974).

Hill-Burton Act.[109] The act provides Federal monies primarily for the construction of health facilities. Over the years, San Juan Hospital has received approximately $600,000 from Hill-Burton for construction purposes. According to Mr. Martin, from July 1, 1973 to June 30, 1974, the hospital provided $66,242 in free care to low-income patients. Approximately $6,300 or about 10 percent of this money were provided to Indian patients. (vol. 2, p. 64)

The hospital also has access to a special County Indigent Fund. Under this program, if a patient is not able to pay for medical services, the hospital can request funds from the county.[110] Mr. Martin described the procedures for requesting such funds. First, a determination is made by the hospital administration, not the admitting doctors, whether the patient can pay for the services rendered. If the patient cannot pay, the administration can make a recommendation to its citizen advisory committee. This committee, Mr. Martin said, consists of seven citizens who serve in an advisory capacity to the hospital. They are selected from the Corporation Membership which includes representatives from about 40 community agencies. This committee, in turn, makes a recommendation to the County Commissioners. The commissioners, according to Mr. Martin, have the final say as to whether the patient will receive funds under this program. Both Mr. Martin and Mr. Keaton, assistant administrator, noted that there has never been a problem in getting money through the County Indigent Fund. Usually, if the advisory committee recommends that a patient is eligible for funds through the Indigent

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109. 42 U.S.C. §291 (1974). As a prerequisite for Hill-Burton funding, a State desiring to receive such aid must designate an agency for supervising the administration of the State plan submitted for the purpose of obtaining funding. 42 U.S.C. §291(d) (9)(1)(1974). In the case of New Mexico, it is the Department of Health and Social Services. This agency is also responsible in New Mexico for establishing the procedures for determining levels of uncompensated services based on the financial status of the grantee (San Juan Hospital), the nature of the service of the hospital, the need within the area, and the extent of area-wide planning. See also Susan Bogle, A Review of Potential Professional and Community Support for a Comprehensive Health Clinic.

110. Charles Martin and Gene Keaton, interviews in San Juan Hospital, Aug. 8, 1974.

Fund, Mr. Martin stated, the commissioners will accept that recommendation.111

Mr. Martin stressed that the doctor has no say in selecting indigent patients. The hospital administration, he said, has the major responsibility in seeking patient fees through the Indigent Fund. The only funds, he added, received by the hospital from the county are through this fund. The reason for this, Mr. Martin explained, is that the hospital is not a public facility. It is a private, nonprofit organization set up to provide medical care for persons living in San Juan County and the surrounding area. All funds the hospital receives must come through paying customers.112

111. *In 1965 the State of New Mexico enacted the Indigent Hospital Claims Act. The purpose of the act was to recognize that the county, a legitimate governmental body, is the responsible agency for the hospital care of indigent persons residing in that county and established a means whereby each county could discharge this responsibility through a system of financial reimbursement to hospitals for actual costs incurred as the result of the care and treatment of the indigent person.*

According to the definitions provided by the act, an "indigent patient" means a person who has been admitted to a hospital for care, and who can normally support himself and his dependents on present income and liquid assets available to him, but taking into consideration this income and those assets, and his requirement for other necessities for the family, is a person who is unable to pay the cost of the hospital care.

Any patients receiving public assistance may not be considered eligible for coverage under this program to the extent that hospital expenses are covered under the public assistance programs.

According to the policy issued by the hospital, all non-welfare persons who are indigent and cannot afford hospital care may request payment of their hospital costs from the County Indigent Fund. Upon completion of required financial forms and history, their claims are presented to the credit advisory committee.

The State has issued a general policy to determine the amount of the funds for each county. On the basis of that policy, San Juan County is required to provide approximately $30,000 per year to the Indigent Fund. See Susan Bogle, A Review of Potential Professional and Community Support for a Comprehensive Health Clinic, pp. 81-82. Also Indigent Hospital Claims Act, N. Mex. Stats. Ann. ch. 13, §2(12) (1965).

112. *Charles Martin and Gene Keaton, interviews in San Juan Hospital, Aug. 8, 1974.*

At the open meeting, Mr. Martin stated that San Juan County has budgeted approximately $30,000 for the Indigent Fund. Of this total, $4,000 or about 14 percent of the monies available through this program were applied to various Indian accounts during the last fiscal year July 1, 1973, to June 30, 1974. (vol. 2, p. 69)

San Juan Hospital also receives patients under the Medicaid/Medicare programs. Gene Keaton, assistant administrator, noted that there was a total of 27,282 inpatient days (each day a patient is in the hospital) recorded at the hospital from July 1, 1973, to June 30, 1974. Of this total, 5,325 patients were admitted under Medicare. Under the Medicaid program, he added, there were an additional 669 patients admitted to the hospital. He stressed the fact that the hospital administration has no say in accepting Medicare/Medicaid patients. The patient's doctor, he said, must decide whether to accept payment under these programs. The doctor is also responsible for preparing all paperwork regarding these programs.[113]

San Juan Hospital also has a Contract Medical Care Program (CMC) with the Public Health Service/Indian Health Service to provide hospital services to Indian patients.[114] Under the terms of the contract, renewed annually, the hospital must provide:

> *...proper and adequate general hospital accomodations and services to Indian patients which are equal to those generally provided to general population patients in both quality and number.*[115]

To carry out the terms of the contract, the PHS/IHS has allocated $25,000 annually to San Juan Hospital to provide care to Indian patients. This care, however, can be provided only to those Indian patients who have received prior authorization from the PHS Hospital in Shiprock.

If an Indian requests medical services from San Juan Hospital under the contract, the doctor on call must first seek authorization from the PHS Hospital in Shiprock. If the hospital does receive

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113. Ibid.

114. DHEW, PHS, HSMHA, Navajo Area Indian Health Service. Contract for Hospital Services. Contractor, San Juan Hospital, Inc., Contract No. HSA 77-75-1. Effective Date 7/1/74, Expiration Date 6/30/75.

115. Ibid. Article III, §A, p. 3.

authorization from the PHS, it can proceed to provide the necessary medical care. In this instance, the hospital will be reimbursed under the terms of the contract. If the patient is not authorized, he added, the administration can either submit a request for indigent funds if the patient cannot pay for services or transfer the patient to Shiprock for treatment.[116]

According to Charles Martin, chief administrator at San Juan Hospital, the absence of any authorization from the PHS Hospital in Shiprock does not present a problem to the hospital, nor, he asserted, does it present an undue hardship to the patient. The patient is simply told to go to the Shiprock facility for medical treatment if the illness or injury is not serious. However, getting the authorization under extreme emergency conditions is often difficult, he said. Article X of the contract specifies that all transportation of Indian patients must be authorized in advance by the PHS. If under emergency conditions the hospital does not receive prior authorization, it must either pay for ambulance services to transport the patient to Shiprock or accept the patient and the cost of providing medical services.[117]

Mr. Martin stated that there are no exchanges in personnel between the hospitals other than on a consultant basis, and that there appears to be a degree of animosity between the hospital staffs. Both Mr. Martin and Dr. Lavern Husen, acting service director and clinical director at the PHS Hospital, confirmed this. According to Mr. Martin, this problem has existed for many years. (vol. 2, p. 98)

The major hospital facility for Indians in the county and the surrounding region is the federally funded Public Health Service/ Indian Health Service (PHS) hospital located in Shiprock. The Shiprock Indian Service Unit constructed in 1957 is the largest of eight such units on the Navajo Reservation, serving nearly 20,000 Navajos and covering approximately 5,000 square miles. Its jurisdiction, the northeast corner of the reservation, covers portions of the States of New Mexico, Arizona, and Utah.

The facility is presently operating with a serious shortage of facilities and staff, according to J. Gerald Conley, chief administrator for the PHS Hospital. Mr. Conley stated that he has a staff of only 16 doctors. Although many of these doctors are specialists, he added, the hospital is still understaffed. He noted that for a 75-bed facility there should be 2.9 employees per bed if staffed according to national staffing patterns. At the present time, there are only 1.5 employees

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116. Charles Martin and Gene Keaton, interviews in San Juan Hospital, Aug. 8, 1974.

117. Ibid.

per bed at the hospital. Mr. Conley pointed out that the hospital has only about half the staff needed to operate the hospital at an effective level.[118]

PHS Hospital has only one ambulance available. This ambulance, Mr. Conley said, is not always available because of lack of drivers and attendants to operate it on a 24-hour basis. The Navajo Tribe has an ambulance on call, but even this, he added, is inadequate to meet the requirements for transporting patients from one point to another on a day-to-day basis.

According to Dr. Lavern Husen, acting service director and clinical director, the PHS Hospital uses funds from its Contract Medical Care Program (CMC) to pay other health facilities for services that it is unable to provide to its Indian patients, such as emergency medical treatment and specialized diagnosis. Most of the CMC money is used for Indians residing on the reservation, but it can also be used to pay for those living off the reservation if the need arises. Contracts with hospitals and health facilities are budgeted annually.

At present, the PHS Hospital has a contract with the San Juan Hospital to provide $25,000 worth of medical care to Indian patients. The Shiprock facility also contracts with the Mercy Medical Center in Durango, Colo.; Southwest Memorial Hospital in Cortez, Colo.; Presbyterian Hospital and Bernalillo County Medical Center, both in Albuquerque.[119]

Dr. Husen said that under the CMC programs with San Juan Hospital:

> *...the physician who is examining the Indian patient at the...emergency room will immediately contact the physician on duty at Shiprock if it is during duty hours. If it is on the weekend, or at night, we have an officer on duty to handle these matters. If the person needs admitting to the hospital...we will authorize that care. However, we also ask the physician to estimate how many days he thinks the patient is going to be in the hospital.... From that estimate we can set aside a certain amount of money to take care of the expenses....*

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118. J. Gerald Conley, chief administrator, interview in Shiprock PHS Hospital, Aug. 1, 1974.

119. Dr. Lavern Husen, acting service director and clinical director, interview at Shiprock PHS Hospital, Aug. 1, 1974.

> *If the patient is not in such condition that he has to be hospitalized immediately, but can be transported to Shiprock, then we will sometimes have him sent to Shiprock in order to conserve this contract medical care money. (vol. 2, p. 98)*

Dr. Husen told Commission staff that the money allotted for the CMC program is insufficient to meet the tremendous needs. He also pointed out that one of the most serious problems with the present CMC program is that hospital's budget is on a continuing resolution, and that repayment for CMC is usually slow:

> *We have difficulties all the time because we don't have enough money to pay for the medical care of any Indian patient who goes to a private physician, or walks to an emergency room and receives care, unless we have previously authorized his receiving care there. We have to turn down some of these bills because there just isn't money to pay them, and that doesn't make for a good relationship with the man who performs the service. (vol. 2, p. 98)*

There is no coordinated health planning in the region between the PHS facility at Shiprock and San Juan Hospital or any other medical facility. Given the vast distances, poor transportation facilities, and the limited number of doctors in the region, the absence of any kind of coordinated planning in the health sector poses a serious problem of providing adequate medical care for Navajos in the region. (vol. 2, p. 101)

J. Gerald Conley noted that the relationship between the PHS Hospital and the San Juan Hospital has been wrought by bureaucratic intransigence and anxiety. This has only served to hamper effective medical care to Navajos living in the area, he said. There are also complex jurisdictional problems involved in providing health and medical care to Indians. The provision of health services to Indians, Mr. Conley noted, is not an exclusive responsibility of the Federal government. When an Indian leaves the reservation, responsibility for providing health services is assumed by the State and local communities through public and private vendors.[120]

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120. J. Gerald Conley, interview at Shiprock PHS Hospital, Aug. 1, 1974.

In a county with a very high incidence of alcoholism, no existing rehabilitation facilities, and inadequate health care services to Navajos, there has been little or no public response to deal with the issues. With the passage of the Detoxification Act in 1973, detention of alcoholics, has been the only general response. There is no adequate program in Farmington to deal with alcohol-abuse problems among Navajos. The community, with few exceptions, has not been supportive of any kind of rehabilitative services.

Navajos in the region receive inadequate health care services. Testimony at the open meeting suggested that the relationship between the Shiprock facility and the private medical community in Farmington are often strained and that there appears to be a general reluctance on the part of the community to extend care and services to Navajos. Existing health facilities on the reservation are understaffed and inadequate to meet the daily needs of the Navajo people. The health care situation is at a crisis stage.

RELENTLESS RECIPROCITY: THE ECONOMIC SYSTEM OF FARMINGTON

> *The towns just beyond the borders of Indian reservations have historically served as middlemen between whites and Indians. Border town trading posts and stores bought from and sold to Indian agencies, and as time went on, border towns also became the local headquarters of corporations exploiting Indian resources. These various services have bound Indians and border towns together in the same 'relentless reciprocity' that Jean Paul Sartre saw binding colonized to colonizer in Africa. Now, the old reciprocity, which was based on inequality and dependency, is breaking down and a new reciprocity, based on more equal rights and power, must be established.*[121]

The reciprocity which binds Navajos to Anglos in Farmington and establishes the parameters for relationships between these two groups is oppressively unequal. According to Peter MacDonald, Navajo Tribal Chairperson:

> *Our people have suffered injustices ever since the first Anglo set foot on our land. Why? Because they, the Anglos, established their relationship with us on an untenable basis instead of mutual exhange in every area of our association. It is one of domination and not cooperation, or very little cooperation. (vol. 2, p. 265)*

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121. Phillip Reno, "The Indians Come to Town," The Nation, Aug. 31, 1974, p. 146.

In 1870 the first white settlers moved into the region and began to develop farms and ranches in the three river valleys around Farmington. Farmington remained for years an agricultural and trading center. In the early 1950s oil and gas discoveries brought a surge of people and a new prosperity to the area. By 1956 nearly $1 billion had been invested in oil, natural gas production, uranium, and other minerals in the county, and a large number of people migrated into the area as employees of the extractive industries and small business entrepreneurs.

Many of the oil and gas wells were located on Navajo land. Rents and royalties from the wells went to the tribe rather than to individual Navajos and augmented tribal revenues substantially.

In the early 1960s a giant electrical power plant was built on Navajo land not far from Farmington. During this period the Navajos also relinquished water rights in exchange for a project to irrigate 110,000 acres of their land across the river from Farmington. After years of delay in Washington, the project is nearing completion; water will reach the first block of land in 1976.

In the early 1970s another power plant was established on non-Indian land nearby. Navajo coal and water were the essential resources used to generate the power. At present, the general economy of San Juan County is dominated by these mining and natural gas recovery activities.

Manufacturing and service activities historically have not been predominate in San Juan County. Manufacturing has been handicapped by the relative inaccessibility of the county and by the fact that Farmington is not serviced by a railroad. Traditionally, San Juan County has been oriented toward a natural resource base and only recently has begun to reap benefits from manufacturing activities.

The economy of the reservation is dominated by traditional economic activities, such as sheepherding and handicrafts. Establishment of the Four Corners Power Plant and the Navajo Mine in Fruitland and Fairchild Semi-Conductor Plant in Shiprock have provided a boost to the economy of the reservation. These three facilities had a combined employment of approximately 1,380 employees in 1974. Of this total, it is estimated that approximately 1,008 are Navajo. (See Table 10).

Phillip Reno, a noted economist who has been involved for many years in Indian affairs, described the development of Farmington's modern economy:

TABLE 10

SELECTED EMPLOYMENT PROFILE
FOUR MAJOR EMPLOYERS ON THE NAVAJO RESERVATION
1974

Job Category / Company	Professional/ Technical		Managers/ Administrators		Sales Workers		Clerical/ Kindred		Craftsmen (Skilled)		Operatives (Semi-skilled)		Laborers		Service Workers			
	Total	Navajo	Total	Navajo	Total	Navajo	Total	Navajo	Total	Navajo	Total	Navajo	Total	Navajo	Total	Navajo	Total	Navajo
Utah International	47	21	34	3	0	0	24	15	196	120	43	35	47	44	5	6	399	244
Arizona Public Service Co.	27	2	36	1	0	0	19	13	71	2	90	43	64	55	3	3	310	119
El Paso Natural Gas Company	106	5	43	2	0	0	21	5	4	0	9	0	0	0	2	0	215	12
Fairchild Semi-Conductor	19	10	37	21	0	0	39	39	63	63	497	496	8	8	8	8	671	645
Total	199	38	150	27	0	0	133	72	334	185	641	574	119	107	19	17	1,595	1,020
Percent Navajo	19.0%		18.0%		0.0		54.1%		55.3%		89.5%		89.9%		89.4%			

Total White-Collar - 482	Total Blue-Collar - 1,113
Total Navajo - 137	Total Navajo - 883
Percent Navajo - 28.4%	Percent Navajo - 79.3%

SOURCE: Employer Information Report EEO-1 (1974) for Utah International (Navajo Mine), Arizona Public Service Company (Four Corners Power Plant), El Paso Natural Gas Company (San Juan Division), and Fairchild Semi-Conductor.

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gory	Professional/ Technical		Managers/ Administrators		Sales Workers		Clerical/ Kindred		Craftsmen (Skilled)		Operatives (Semi-skilled)		Laborers		Service Workers				Percent Navajo
	Total	Navajo	Total	Navajo	Total	Navajo	Total	Navajo	Total	Navajo	Total	Navajo	Total	Navajo	Total	Navajo	Total	Navajo	
ional	47	21	34	3	0	0	24	13	196	120	45	35	47	44	5	6	399	244	61.1
ublic Co.	27	2	36	1	0	0	19	13	71	2	90	43	64	55	3	3	310	119	38.3
atural any	106	5	43	2	0	0	51	5	4	0	9	0	0	0	2	0	213	12	5.5
ductor	19	10	37	21	0	0	39	39	63	63	497	496	8	8	8	8	671	645	96.1
	199	38	150	27	0	0	133	72	334	185	641	574	119	107	19	17	1,595	1,020	63.9
nt o	19.0%		18.0%		0.0		54.1%		55.3%		89.5%		89.9%		89.4%				

Total White-Collar - 482	Total Blue-Collar - 1,113
Total Navajo - 137	Total Navajo - 883
Percent Navajo - 28.4%	Percent Navajo - 79.3%

SOURCE: Employer Information Report EEO-1 (1974) for Utah International (Navajo Mine), Arizona Public Service Company (Four Corners Power Plant), El Paso Natural Gas Company (San Juan Division), and Fairchild Semi-Conductor.

> *In time, Indian trade as well as Indian resources became essential to Farmington's prosperity. Indians make up only some 10 percent of the city's 30,000 people, but Navajos from homes on the reservation comprise an estimated one-third of the town's shoppers.*[122]

Employment data from the 1970 Census indicates there were 15,159 employed people in San Juan County. Of this total, the two largest single employment categories are retail trade and mining, including oil and gas operations, with 2,466 and 2,247 employees or 16.4 and 14.8 percent of the total, respectively. The third major employer is education services, with an employment of 1,781, (this includes both public and private schools). Much of this employment is related to the boarding schools on and near the Navajo Reservation. The fourth and fifth major employers, respectively, are manufacturing and construction, with employment levels of 1,428 and 1,363. The general economic patterns of San Juan County are substantiated by these employment data. The basic activity or major economic stimuli in the county are mining, gas, and oil, with retail trade having developed to support these more basic industries. Indications of the rapidly increasing economic tempo in the county are shown by the large number of employees in the construction industry. (See Table 11).

The occupational distribution of the employed labor force is shown in Table 12. Slightly more than one-fourth of the labor force in the county are in the professional, technical, and manager category. The next largest grouping is in the craftsman, foreman, and kindred job categories. More than 40 percent of the work force are employed in white collar jobs. The remainder are in blue collar and service occupations.

The overall unemployment rate in Farmington is approximately 8 percent.[123] In comparison, national unemployment rate for the year 1973 was about 5.6 percent.[124] The unemployment rate for Navajos, according to the Bureau of Indian Affairs, is approximately 36 percent. This percentage translates to 16,567 unemployed out of a total reservation labor force (16 years old and over) of 47,317. An additional 9,845 members are only temporarily or seasonally employed. When these

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122. Reno, "The Indians Come to Town", p. 149.

123. New Mexico Department of Development, "Community Profile, Farmington." (Santa Fe, N. Mex., 1971).

124. U. S., Department of Labor, Bureau of Labor Statistics.

TABLE 11

Industry Group of Employed - 1970		
Industry	Number	Fraction
Total employed 16 years old and over	15,159	1.000
Agriculture, forestry, and fisheries	393	.026
Mining (including oil and gas)	2,247	.148
Construction	1,363	.090
Manufacturing	1,428	.094
Furniture and lumber and wood products	18	.001
Metal industries	81	.005
Machinery, except electrical	104	.007
Electrical machinery, equipment and supplies	715	.047
Transportation equipment	6	.001
Other durable goods	101	.007
Food and kindred products	120	.008
Textiles and fabricated textile products	13	.006
Printing, publishing, andallied industries	49	.003
Chemicals and allied products	11	.001
Other nondurable goods (incl. not specified mfg. indus.)	210	.014
Railroads and railway express service	35	.002
Trucking service and warehousing	192	.013
Other transportation	168	.011
Communications	164	.011
Utilities and sanitary services	602	.040
Wholesale trade	502	.033
Food, bakery and dairy stores	403	.027
Eating and drinking places	473	.031
General merchandise retailing	297	.020
Motor vehicle retailing and service stations	521	.034
Other retail trade	782	.052
Banking and credit agencies	192	.013
Insurance, real estate, and other finance	284	.019
Business and repair services	390	.026
Private households	167	.011
Other personal services	534	.035
Entertainment and recreation services	103	.007
Hospitals	310	.020
Health services, except hospitals	192	.013
Elementary, secondary schools, and colleges - government	1,622	.107
Elementary, secondary schools, and colleges - private	159	.010
Other education and kindred services	44	.003
Welfare, religious, and nonprofit membership organizations	277	.018
Legal, engineering, and miscellaneous professional services	296	.020
Public administration	1,019	.067

SOURCE: U. S. Bureau of the Census., Census of Population: 1970, General Social and Economic Characteristics, Final Report PC(1)-C33, New Mexico.

TABLE 12

OCCUPATIONAL DISTRIBUTION OF EMPLOYEES
BY SEX - SAN JUAN COUNTY
1970

Occupation Group	Total	Percent	Female	Percent	Male	Percent
Professional, Technical, kindred	2,399	15.8	1,016	19.1	1,383	14.0
Managers and Administrators	1,434	9.5	218	4.1	1,212	12.3
Sales Workers	971	6.4	414	7.8	557	5.7
Clerical and kindred	2,091	13.8	1,565	29.5	526	5.3
Craftsmen, Foremen and kindred	2,469	16.3	100	1.9	2,369	24.1
Operatives, excluding Transport	2,136	14.1	578	10.9	1,558	15.8
Transport Equipment Operatives	750	4.9	56	1.1	694	7.0
Laborers, except Farm	535	3.5	24	.5	511	5.2
Farmers and Farm Managers	156	1.0	17	.3	139	1.4
Farm Laborers and Foremen	194	1.3	16	.3	178	1.8
Service Workers	1,782	11.8	1,061	20.0	721	7.3
Private Household Workers	242	1.6	242	4.6	0	0.0
Total	15,159	100%	5,307	100%	9,848	100%

SOURCE: U. S., Bureau of the Census, Census of Population: 1970, General Social and Economic Characteristics, Final Report PC(1)-C33, New Mexico.

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SOURCE: U. S., Bureau of the Census, Census of Population: 1970, General Social and Economic Characteristics, Final Report PC(1)-C33, New Mexico.

totals are combined, 56 percent of all Navajos are either unemployed or work only part time.[125]

The overall labor participation rate in San Juan County in 1970 was 31.2 percent, which is below the State average of 35.2 percent. The percentage of people 16 years of age or older that were participants was 53.3 percent for San Juan County and 54.9 percent for New Mexico. These data indicate that a smaller percentage of the population in San Juan County is employed or actively seeking employment than in New Mexico as a whole. Age-specific labor-force participation rates also reflect the underparticipation by San Juan residents. (See Table 13).

TABLE 13

LABOR FORCE PARTICIPATION RATES
BY AGE AND SEX - 1970

Age	Male San Juan Co.	Male New Mexico	Female San Juan Co.	Female New Mexico
14-15	9.1	12.1	8.3	7.3
16-17	22.6	30.0	20.0	18.3
18-19	53.3	51.4	35.0	38.8
20-21	49.2	71.7	41.9	46.6
22-24	79.4	82.1	45.2	49.9
25-34	89.0	90.0	41.2	40.6
35-44	86.0	92.6	45.9	44.2
45-64	81.5	83.4	34.8	39.9
65+	28.8	24.0	8.0	9.6

Source: U.S., Bureau of the Census, Census of Population: 1970

Low labor participation rates usually indicate that job opportunities are not sufficiently great to induce people into actively seeking employment. These statistics, however, must be viewed with the measurement problems in mind. Since it is anticipated that the Navajo's population labor force is underenumerated, the county labor participation rates are probably not as low as they appear from the published data.

125. See Staff Report, p. 48.

In a special survey of 21 major employers in San Juan County conducted by Commission staff, American Indians constituted a significant portion of the total labor force employed by these companies in 1973. A total of 3,868 were employed by these companies. One thousand three hundred seventy-eight or approximately 38 percent of the total work force in these companies were Indians. Slightly more than 2,200 or about 57 percent were Anglo. The rest were either Spanish Americans or blacks. (See Table 14).

Eighty-eight percent of the Indian employees were in blue-collar jobs; more than 70 percent were concentrated in the operative and laborer job categories. In contrast, 55 percent of the Anglo work force were employed in blue-collar occupations, but only 18 percent were in the operative and laborer job categories.[126]

Nearly 80 percent of all the Indian blue-collar workers were in the semi-skilled or unskilled job categories. In comparison, only about 33 percent of the Anglo blue-collar work force were in these categories.

The major sources of private employment in San Juan County are: Arizona Public Service Company, El Paso Natural Gas, Fairchild Semi-

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126. The Bureau of the Census has defined four major occupation divisions:
Service Workers - Service workers including private households.
Blue collar - Craftsmen and kindred workers; operatives, except transport; transport equipment operatives; and laborers except farm.
Farm workers - Farmers and farm managers, farm laborers and foremen.
White collar - Professional, technical, and kindred workers; managers and administrators, except farm; sales workers; and clerical and kindred workers.

The sequence in which these four divisions appear is not intended to imply that any division has a higher social or skill level than another. However, most unskilled workers tend to be concentrated in the operative and laborer categories. White collar workers tend to receive higher wages than the other three divisions.

TAPLE 14

SELECTED EMPLOYMENT PROFILE[1]
21 MAJOR EMPLOYERS - 1973
SAN JUAN COUNTY

Occupation Category	Total Employment		Total Anglo Employment		Total Indian Employment		Other Minority[2]		Total	Total Indian	Percent Indian
	M	F	M	F	M	F	M	F			
Professional/ Technical	324	75	259	66	33	3	32	6	399	36	9.2
Managers/ Administrators	340	32	310	20	23	8	7	4	372	31	8.3
Sales Workers	58	121	52	94	1	10	5	17	179	11	6.1
Clerical and Kindred	150	230	71	129	23	39	56	62	380	62	16.3
Craftsmen, Foremen	870	2	674	1	187	0	9	1	872	187	21.4
Operatives Excl. Tranportation	493	607	355	22	126	547	12	38	1,100	673	61.1
Laborers except Farm	165	172	22	0	141	172	2	0	337	313	92.8
Service Workers	81	148	30	100	40	25	11	23	229	65	28.3
	2481	1387	1773	432	574	804	134	151	3868	1378	35.6%
	3,868		2,205		1,378		285				

1/ Employment data are from the following companies: Amaco Products Co., Four Corners Power Plant, B.F. Walke Skyline Motel Corp., Dow Chemical, El Paso Natural Gas Co., Fairchild Semi Conductor Division, Halliburton Ser J. C. Penny, Britts Department Store, Loffland Brothers Co., Mountain Bell, Public Service Co. of New Mexico, Tractor Co., Safeway Stores, San Juan Hospital, Sears, Roebuck & Co., Southern Union Gas Co., Utah Internation Y & S Candies, Inc., and American Linen Supply Co.

2/ Includes Spanish American, and blacks.

SOURCE: Equal Employment Opportunity Commission - Summary EEO-1 (1973). Albuquerque, New Mexico.

TAPLE 14

SELECTED EMPLOYMENT PROFILE[1]
21 MAJOR EMPLOYERS - 1973
SAN JUAN COUNTY

Occupation Category	Total Employment M	Total Employment F	Total Anglo Employment M	Total Anglo Employment F	Total Indian Employment M	Total Indian Employment F	Other Minority[2] M	Other Minority[2] F	Total	Total Indian	Percent Indian	
fessional/ echnical	324	75	259	66	33	3	32	6	399	36	9.2	
agers/ dministrators	340	32	310	20	23	8	7	4	372	31	8.3	
es Workers	58	121	52	94	1	10	5	17	179	11	6.1	11.6%
rical and indred	150	230	71	129	23	39	56	62	380	62	16.3	
ftsmen, oremen	870	2	674	1	187	0	9	1	872	187	21.4	
ratives Excl. ranportation	493	607	355	22	126	547	12	38	1,100	673	61.1	
orers except arm	165	172	22	0	141	172	2	0	337	313	92.8	88.4%
vice Workers	81	148	30	100	40	25	11	23	229	65	28.3	
	2481	1387	1773	432	574	804	134	151	3868	1378	35.6%	
	3,868		2,205		1,378		285					

Employment data are from the following companies: Amaco Products Co., Four Corners Power Plant, B.F. Walker, Inc. line Motel Corp., Dow Chemical, El Paso Natural Gas Co., Fairchild Semi Conductor Division, Halliburton Services, C. Penny, Britts Department Store, Loffland Brothers Co., Mountain Bell, Public Service Co. of New Mexico, Rust tor Co., Safeway Stores, San Juan Hospital, Sears, Roebuck & Co., Southern Union Gas Co., Utah International, Inc., S Candies, Inc., and American Linen Supply Co.

Includes Spanish American, and blacks.

RCE: Equal Employment Opportunity Commission - Summary EEO-1 (1973). Albuquerque, New Mexico.

Conductor, and Utah International. Each of these companies is located, at least in part, on the Navajo Reservation, and has contracted with the Navajo Tribe to utilize and develop the natural resources on the reservation. Overall, these companies as of 1974 employ a total of 1,595 workers, of which 1,020 or approximately 64 percent are Navajos. (See Table 15).

TABLE 15

EMPLOYMENT PROFILE
SELECTED EMPLOYERS ON THE
NAVAJO RESERVATION

Company	Total Employment	Total Navajo Employment	Percent Navajo
Utah International	399	244	61.1%
Arizona Public Service Co.	310	119	38.3%
El Paso Natural Gas Co.	215	12	5.5%
Fairchild Semi-Conductor	671	645	96.1%
Total	1,595	1,020	63.9%

SOURCE: Employer Information Report EEO-1 (1974) for Utah International (Navajo Mine), Arizona Public Service Company (Four Corners Power Plant), El Paso Natural Gas Company (San Juan Division), and Fairchild Semi-Conductor.

The development of these resources has increasingly met with disapproval from Navajos. Indian leader, John Redhouse, for example, was blunt in condemning what he considered as exploitation:

> *I am against the further desecration of our sacred mother earth through criminal strip mining....They are only fueling the fires of the fake energy crisis so that the white people in Southern California can have electric toothbrushes, total electric homes.... Make no mistake about it, the Navajo reservation is rapidly being turned into a resource colony for Southern California, Arizona, Nevada, and... New Mexico. (vol. 1, p. 29)*

The industries operate on the reservation under a lease agreement with the Navajo Tribe for royalty payments. According to Phillip Reno, these payments are usually small in comparison to the profits of the firms:

> *These are Navajo resources being used, exploited by these big companies, and the returns, have gone to the Tribe in royalty payments. In the royalty payment, there is a lease payment but it is very small....The royalty payments, at present, on coal is 15¢ a ton from Utah; it is a 35-year lease with a renewable option. There is some provision in it for a 10 year review, but the 10 years have passed and there is no change.*
>
> *So that it looks as though the Navajo Tribe are selling their resources....The royalty payment on coal in Montana is now 44¢; isn't it on Indian country there? You know, it is a pittance. (vol. 2, p. 191)*

In addition to royalty payments, each lease contract calls for the companies to employ Navajos on the preferential basis.

The concept of Indian preference stems from an 1834 law which provided for the Federal Government to use Indian labor in all aspects on and near the Indian reservations which were being established.[127] In the Indian Reorganization Act of 1934, Indian preference was also provided for in the statutory language.[128] In addition, the Bureau of Indian Affairs is directed by statute, which has been upheld in the United States Supreme Court in 1974, to give preference to Indians in all its operations.[129]

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127. Act of June 30, 1834 §9, 4 Stat. 737, 25 U.S.C. §45.

128. Section 12 of the Indian Reorganization Act, also known as the Wheeler-Howard Act, 48 Stat. 986; 25 U.S.C. §472 (1934).

129. In Morton v. Mancari, 945 S. Ct. 2474 (1974), non-Indian employees of the Bureau of Indian Affairs (BIA) claimed that the employment preference for qualified Indians in the BIA contravened the anti-discrimination provisions of the Equal Employment Opportunities Act of 1972. The Court held that the Indian preference does not constitute invidious racial discrimination in violation of the Due Process Clause of the Fifth Amendment but is reasonable and rationally designed to further Indian self-government; and that Congress did not intend to repeal the Indian preference by passage of the Equal Employment Opportunities Act of 1972, 42 U.S.C. §2000e-16g (Supp. II, 1973).

The Navajos preference clause requires all unskilled labor to be drawn from "local Navajos" available, conditioned only on their ability to meet the general employment qualifications of the contractors. Navajos are also to be employed in all craft and other skilled jobs for which they can qualify on a "local" and then a "non-local" basis.[130]

The Navajo Tribe, however, has experienced difficulty in getting companies on the reservation to comply with the mandate of Indian preference. In 1972 the Office of Navajo Labor Relations (ONLR) was established by the Tribe:

> *...to bring to the Navajo Tribe new and more effective ways to reduce unemployment, through the realization of preferential treatment of Navajo Indians in employment within all enterprises, businesses, and projects undertaken within or near the Navajo Nation and through greater coordination of training programs, hiring halls, and employment opportunities for members of the Navajo Nation.*[131]

Tom Brose, ONLR director, indicated that the office was created because:

> *It was the experience of the Navajo Tribe that even though these provisions were in the legislation and in the leases, that in general, they were ignored by those companies that operated on the reservation. Thus, the Tribe decided, after Navajo workers had complained to the Tribal Council and to the Chairman, in 1972, to establish an office which would be an enforcement authority for the Tribe regarding leases and Indian preference in general. (vol. 2, p. 74)*

In the 2 years of its operation, the ONLR has encountered problems with the precise interpretation of the Indian preference clause. According to Mr. Brose:

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130. Staff Report, p. 52.

131. Resolution of the Navajo Tribal Counsel, Jan. 19, 1972.

> *It means that Indians shall be preferred for each and every position in which they can do the work that is required. In addition, I think there are certain kinds of afffirmative action steps which any company would have to take with regard to any minority, and that is, to take steps to correct the present effect of past discrimination, which are widespread.... Our position is that if Navajo people are available to fill that position, then they should be hired. Now that does not take place. It does not take place for a number of reasons: The primary one is that companies and contractors have not, until recently, taken steps to actively seek, train, and promote Indians. (vol. 2, p. 81)*

To implement the Indian preference clause more forcefully, ONLR has developed guidelines for new contracts entered into by the Tribe.[132] These guidelines, which became effective March 1, 1973, apply to: (1) every bid let and contract for construction entered into between the Navajo Tribe and any party, and (2) every agreement or renewal of agreement between the Navajo Tribe and any party for the leasing of land granting rights of way, or for any other purpose, which ultimately results in construction activity taking place within or near the Navajo Reservation involving 20 or more persons. Under these guidelines ONLR sets in percentage terms goals and timetables for the employment, training, and promotions of Navajos in each craft.[133]

These guidelines are also appended to contracts let on the reservation by Federal agencies such as the Department of Health, Education and Welfare, and the Department of Housing and Urban Development. According to ONLR director Tom Brose, this has resulted in increasing the number of Navajos involved in the construction of housing, hospitals, and schools built on the reservation under contracts let by these agencies. However, he added, Federal agencies such as the Bureau of Indian Affairs and the Bureau of Reclamation have never recognized the guidelines, and on some of their contracted construction projects, Navajo employment is only between 20 and 40 percent of the total labor force. (vol. 2, p. 75)

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132. Office of Navajo Labor Relations, ONLR Guidelines for the Establishment of Navajo Manpower Utilization Requirements in Construction Activity. (Window Rock, Ariz., 1973).

133. Ibid.

Mr. Brose noted a serious weakness in the enforcement powers of the ONLR. Only those companies which signed contracts subsequent to 1973 are bound by the guidelines.[134] Those companies with contracts dating earlier are not required to have the specific goals and timetables or to affirmatively seek Navajo employees. This gap in the enforcement authority has led to much controversy over the definition of precisely what is required by the Indian preference clause and how it affects a company's recruitment, employment, and promotion of Navajos. (vol. 2, p. 82)

ONLR may impose sanctions on those companies subject to the guidelines, such as the closing of their operation. ONLR may also order the rehiring of Navajos and the displacement of those who have been hired in violation of the guidelines and payment of damages to the Navajo Tribe or to individuals. Those companies with leases made prior to establishment of the guidelines must have perpetrated gross violations of the Indian preference clause before ONLR can take any action to request a review by the Office of Federal Contract Compliance. The only other recourse for Navajo employees at these companies is to file individual complaints with the Federal Equal Employment Opportunity Commission (EEOC). (vol. 2, p. 82)

Each of the four largest employers in San Juan County is bound by the Indian preference clause in its lease contract with the Navajo Tribe. All of these contracts, however, were executed prior to 1973 and, therefore, do not fall under the ONLR manpower utilization guidelines. The implementation of Indian preference at each of these firms, as a result, is a function of each company's commitment and willingness to adhere to the spirit rather than the letter of the contract. (vol. 2, pp. 82-83)

Utah International, one of the largest employers on the reservation, began its search for large available deposits of mineable coal in the western United States in the early 1950s. By 1953, Utah International had obtained a permit from the Navajo Nation to prospect for coal on the tribal lands. In 1957, the Navajc Nation granted this company a mining lease containing some 24,000 acres of coal-bearing lands. It is estimated that the lands, which have since been increased to more than 31,000 acres, holds in excess of 1.1 billion tons of coal. The following year the State of New Mexico granted Utah International a permit to use water from the San Juan River. In 1960 Arizona Public Service Company (APS) and Utah Inter-

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134. Ibid.

national executed a sales agreement under which Utah International would supply coal to meet the requirements of APS' Four Corners Power Plant.

Utah International's lease with the Navajo Nation contains a provision requiring preferential Indian employment:

> *Lessee agrees to employ Navajo Indians when available in all positions for which they are qualified in the judgment of the lessee, and to pay prevailing wages to such Navajo employees, and to utilize services of Navajo contractor whenever feasible in the judgment of the lessee. Lessee agrees to make special efforts to work Indians, giving priority to qualified members of the Navajo Tribe, into skilled, technical, and other higher jobs in connection with lessee's operations under this lease.*[135]

William Grant, assistant to the manager at the Navajo Mine, gave the Advisory Committee his interpretation of the clause:

> *What it means to me is that when somebody applies for a job with us and we have, for example, a Navajo and an Anglo of equal abilities, we hire the Navajo. (vol. 2, p. 11)*

It is the company's interpretation, he added, that neither promotions, nor terminations are covered by the preference clause. Training programs, however, are open preferentially to Navajo employees. According to Mr. Grant:

> *We have an apprenticeship training program going on right now. It is a 4-year program. We have approximately 15 entered in it, and it is two nights a week, 3 hours each night. The whole class is Navajo. We bring them in [to train as] journeymen, mechanics, and electricians....(vol. 2, pp. 111-112)*

In 1973 Utah International employed almost 400 persons on the reservation. Two hundred and forty-four or approximately 61 percent were Navajos. More than 80 percent of these Navajo employees, however,

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135. Article II of the mining lease between Utah International, Inc., and the Navajo Tribe, dated July 26, 1957.

were in the blue-collar positions. In the craftsman category, for example, 120 or 61 percent were Navajos. Navajos comprised 77 percent and 93 percent, respectively, of all the workers in the operative and laborer categories. In contrast, Navajos made up only 8 percent of Utah International's officials and managers, and 23 percent of all the professionals. Navajos fared somewhat better in the technician and office/clerical categories constituting 57 percent and 62 percent, respectively, of the total work force in these areas.[136]

Arizona Public Service Company (APS) is the operator of the Four Corners Power Plant. The plant, jointly owned by six companies, is a five-unit electric generating plant. The first units were installed in 1963; later units were added in 1969 and 1970. Arizona Public Service is the operating agent for the six companies.

In 1960 APS concluded a lease agreement with the Navajo Nation for the operation of the power plant in Fruitland, N. Mex. The lease included a Navajo preferential hiring clause. Although similar to the preferential clause included in the contract with Utah International, it was not as detailed:

> *The company agrees that in selecting applicants for employment on the reservation, it will employ Navajo Indians when available in all positions for which they are qualified, in the judgment of the company, and will pay prevailing wages to such Navajo employees. (vol. 2, p. 147)*

APS's interpretation of the mandate of the clause covers initial hiring of Navajos but does not include training, promotions, or terminations. Walter Ekstrom, manager at the Four Corners plant, stated, however, that APS does have a program for training employees, particularly Navajo employees:

> *We have approximately six organized programs for training within the plant. These include what we call an opportunity school program, which is conducted by our employees for the benefit of our employees to prepare themselves for higher-paying positions in the plant. (vol. 2, p. 147)*

Mr. Ekstrom noted:

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136. Utah International, Inc., (Navajo Mine) Employer Information Report EEO-1 (1973). EEO-1 form was submitted to the record by Utah International, Inc.

> *These programs are available to all our employees. And many of them...are geared to our many Navajo employees....They are, of course, strongly encouraged to participate in this program so that they [will] be able to move up into better jobs in the plant. (vol. 2, p. 147)*

In reference to promotions, Mr. Ekstrom said:

> *...the lease does not speak to the preference in terms of promotions. Now we enter into another area here, and that is, we have a union agreement which has provisions for promotions, and those provisions call for the matter of ability, knowledge, adaptability, physical fitness, and all other things being equal, seniority. Sometimes this does create problems between our agreement that we have with the union and the Navajo preference matter which offsets promotions. (vol. 2, pp. 147-148)*

In 1973 APS had 283 employees with 107 or 37 percent Navajo representation. Navajos fared poorly in white-collar categories, constituting only 2 percent of all the officials and managers, 7 percent of the professionals, and 7 percent of all the technicians employed at the plant. In the office and clerical category, they constituted more than 68 percent of all the workers. In the blue-collar positions, Navajos were only about 2 percent of all the craftsmen. In other blue collar positions, Navajos appeared to be overrepresented: more than 45 percent of the operatives and 85 percent of the laborers were Navajos.[137]

APS uses an internal "interest card system" to maintain a current register of Navajo job seekers with statements of their job interests and specific skills. In spite of these efforts, however, APS officials state that it has not been able to recruit qualified Navajos. Mr. Ekstrom said:

> *I would like to say that a number of our positions are skilled type of jobs, such as machinists, instrument repairmen, electricians, and we are trying very hard to locate and recruit qualified Navajos to fill those positions. We have not*

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137. *Arizona Public Service Company Four Corners Power Plant, Employer Information Report EEO-1 (1973) - This was submitted to the record by Arizona Public Service Company.*

been completely successful in finding the qualified skilled Navajos. (vol. 2, p. 149)

The APS definition of "qualified" was challenged, however, by a Navajo employee. He related an account of a Navajo applicant:

One came from Ft. Worth, Tex...[with] 4 years and 8 months general machine operators experience. He knows how to run engine lathes, tiny turret lathes, simultaneous machine and tape lathes, and he has been doing 1 1/2 year of trade school. He applied for a machinist job, which is classified as a journeyman's job at the power plant. It is actually a utility machinist. The only machines you are required to run are the lathes and the drill and the one boring metal machine....70 percent of your work is mechanical work. He was told he was not qualified for a machinist job for the simple reason that he did not have a journeyman's card. So he said, 'Well, what else do you have for me that I can start at?'

They said, 'We can only start you as a laborer or a janitor.' So that is where the person spent approximately a year. And he finally managed to get into the maintenance here, which is the starting level. (vol. 2, p. 225)

Promotions are governed by the union contract, seniority, and experience, but not by the Indian preference clause. One witness alleged that the methods the company utilized to determine promotions work to the detriment of Navajo employees:

We have seen incidents where one individual works in the power plant...[and] has been bidding for a better job...yet an Anglo was promoted over him. [The Anglo] made a better score on the tests, but [the Navajo employee] made a better score in the practical tests, so they gave the job to the Anglo....They [then] asked the Indian employee, 'Why don't you show this Anglo [the one that was awarded the job] how to run this job...?'

> *Some of the problems of misunderstanding we have with companies is that the Navajo just can't do good because...on a written test [the Navajos] make lower scores....But on a practical application, they make good scores...[because] it is job related....On the [written] tests they put hypothetical questions in there: what if this happened, what if this and that happened, and it is not job related....(vol. 3, p. 229)*

Mr. Ekstrom said that APS has strived to adapt personnel policies and benefits to the cultural requirements of the Navajo in northern New Mexico. He indicated that: (1) the company recognizes and allows time off for visits to the medicine man just as they do for other physicians; (2) time off is granted with pay for tribal elections; (3) plant management meets on a regular basis with an inplant Navajo committee appointed by Navajo employees, to discuss and solve specific Navajo problems which may occur within the plant; (4) overtime procedures have been modified to accommodate Navajos who live on the reservation and are unable to install a telephone; and (5) the company has conducted a cultural orientation program for non-Navajo employeess.[138]

Witnesses, however, disputed the intentions of the company. One Navajo witness stated:

> *It is our belief...that the only way the company will listen to us is when we tell them that we are going to call the Federal Government in if we don't get such and such, if we don't get a good deal, or what we are supposed to get. And it seems to me that their ace card is qualifications. (vol. 2, p. 223)*

Fairchild Semi-Conductor is the largest employer of Navajos on the reservation. The company is a division of Fairchild Camera Company and manufactures electronic components for radios and televisions. As of 1973, Fairchild employed approximately 670 workers. Six hundred and forty-five or nearly 97 percent were Navajos.[139]

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138. Statement of Walter Ekstrom, manager of the Four Corners Plant, Arizona Public Service Company, pp. 8-9. Statement submitted for the record on Aug. 29, 1974.

139. Fairchild Semi-Conductor, Inc., Employer Information Report EEO-1, (1973). This form was provided by Fairchild Semi-Conductor. On Feb. 24, 1975, the American Indian Movement (AIM) occupied the Fairchild Semi-Conductor Plant at Shiprock for approximately 1 week, closing down the facility. After the occupation ended, the plant remained closed to assess damages. At the time this report was being prepared, it had not reopened.

The company's attitude toward preferential employment of Navajos was explained by Jack Coyne, industrial relations manager for Fairchild:

> *...the prime reason Fairchild Semi-Conductor set up the plant on the Navajo reservation was to enable the tribe to shift its people [who are mainly] dependent on an agricultural type of economy to include a mixture of business and industry. Now, of course, that cannot be accomplished without giving the Navajo people preference. (vol. 2, p. 135)*

At Fairchild, Navajos were more heavily represented in the blue-collar occupations where they held slightly more than 60 percent of the craftsmen positions, 81 percent of the operative jobs, 93 percent of the laborer jobs, and all of the service job positions. More than 60 percent of the office/clerical positions and 57 percent of the technical positions were filled by Navajos. At the higher levels, Navajo representation decreases sharply, only 23 percent of the professional and 8 percent of the administrators and managers were Navajos.[140]

According to Mr. Coyne, Fairchild provides extensive training for Navajo employees:

> *We have a continuous training program because, naturally, the people we hire do not have a background in electronic technology, so we feel that we need a training program. This program starts from the first day and continues as long as the Navajo employee is with us. (vol. 2, p. 136)*

El Paso Natural Gas Company is a pipeline company engaged in the production, processing, and transmission of natural gas. It serves customers in the States of Arizona, Colorado, California, Idaho, Kansas, Louisiana, New Mexico, Nevada, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming.

The natural gas operation is conducted through four divisions which obtain gas from sources in fields, and then transports the gas over hundreds of miles to cities and industries. The gas is sold in wholesale quantities to local gas distribution companies and, in certain instances, directly to industries located outside of city limits.

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140. Fairchild Semi-Conductor, Inc., Employer Information Report EEO-1 (1973).

The San Juan division, which is located in the city of Farmington, includes all activities in the Four Corners area of Arizona, New Mexico, Utah, and Colorado. It produces, processes, and delivers natural gas into the mainlines of the other two divisions. The bulk of the employees in this division work in the northwestern part of New Mexico.

Richard McConn, the vice president for administration at El Paso, explained their understanding of the Indian preference clause:

> *What it means to me and my company is simply that when job openings are available on the Indian reservation, that the Navajo Indian be given preferential treatment in hiring. So long as they are qualified, there is no question but that they will be hired. (vol. 2, p. 123)*

Employment patterns at El Paso Natural Gas, however, appear to refute this commitment to preferential hiring of Navajos. For example, out of a total of 213 employees in 1973, only 12 were Navajos. There were no Navajos employed in blue-collar job categories. Overall, they occupied only about 4 percent of the administrative/managerial positions, none of the professional jobs, and 9 percent of the technical jobs.[141]

In 1973 the Equal Employment Opportunity Commission (EEOC) began to investigate the employment policies of El Paso Natural Gas after receiving allegations that El Paso was failing to recruit, hire, and promote Spanish Americans, American Indians, blacks and females in the same manner that it was recruiting, hiring, and promoting Anglos and males. Subsequently, the EEOC and El Paso Natural Gas concluded a conciliation agreement which established employment goals and timetables for the hiring of minorities and women for each level of employment.[142] This agreement called for a goal of 40 percent Indian employment in the San Juan division and recognizes the Indian preference clause:

> *The company will employ qualified American Indians on a preferential basis at its facilities located within reservation boundaries in accordance with*

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141. El Paso Natural Gas Company, San Juan County Division, Employer Information Report EEO-1 (1973). This was submitted to the record by El Paso Natural Gas Company.

142. Conciliation Agreement between United States Equal Employment Opportunity Commission and El Paso Natural Gas, Case No. YAL3-006, (1974).

its lease agreements with the Navajo Tribe.[143]

At the present time, El Paso Natural Gas conducts its hiring through an application process. According to Mr. McConn:

> *We interview at least once a week. We average about 40 applications per week. We take applications whether or not job openings are available; we have an application file [and] a retrievable system so that when...there is a job opening, we will go to the retrievable system and pull out those employees that (1) have indicated a preference for the type of job that is available, and (2) have the qualifications to fulfill it. (vol. 2, pp. 124-125)*

Mr. McConn indicated that if a job opening is on the reservation, his company will make every effort to find a "qualified" Navajo applicant before filling the position with a non-Navajo. (vol. 2, p. 127) This commitment, however, was challenged by Navajo Tribal officials who allege that although El Paso Natural Gas was offered the use of the Tribe's extensive applicant referral system, with more than 10,000 employment applications, the company had made no effort to utilize this service.[144]

Navajos constitute more than 60 percent of the total work force in these four companies during 1973 and 1974. When taken individually, however, wide disparities exist. The percentage of Navajos employed in these companies range from slightly more than 5 percent for El Paso Natural Gas to nearly 97 percent at Fairchild Semi-Conductor. However, it is significant that more than 50 percent of the Navajo labor force in each of these companies is concentrated in blue-collar occupations, with the vast majority being in the operative, laborer, and service job categories. As Table 10 illustrates, about 80 percent of all Navajos employed in these companies are in blue-collar jobs, and nearly all

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143. Ibid., p. 3.

144. See: Tom E. Robles, Albuquerque district office, Equal Employment Opportunity Commission, memorandum to John E. Rayburn, Jr., chief investigations division, EEOC, Washington, D.C., July 14, 1972.

of these are concentrated in low-skilled job.[145]

In contrast to employment in the private sector, Navajos constitute only a small portion of the total government work force at municipal and county levels. According to data submitted to the Equal Employment Opportunity Commission in 1973, the city of Farmington had 387 full-time employees with an additional 118 employees in part-time positions. These employees are organized in nine divisions: administration, streets, fire department, sanitation, planning and zoning, housing inspection, parks and recreation, police, and airport.[146]

The divisional breakdown of ethnic minorities and women in city employment in 1974 is shown in Table 16. The employment data reveals a severe underutilization and underemployment of Navajos. Of the 387 full-time positions, only 13 are held by Navajos. More than half of the Navajos employed by the city are either with the street department or the water and sewer department.

Employment for the city is handled by a personnel office consisting of two employees, a personnel officer and a secretary, both Anglo. When a vacancy occurs in a city department, the head of the department places a request for personnel with the office which reviews it to make sure there is adequate justification and allotments.

According to Charles E. Peterson, the city's personnel officer:

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145. *Fluor Engineering and Contractors, Inc., major design engineering consultant group who prepared Western Gasification Company's (WESCO) proposed coal gasification plant designs, was also invited to appear with the other major companies having interests on the Navajo Reservation, at the Advisory Committee's open meeting but declined to participate. In a letter to the Advisory Committee, however, the company stated that:*

> *Foremost, Fluor is an equal opportunity employer and this will, most certainly, be the building block of our employment program for the WESCO. In addition, Fluor is developing an affirmative action program which will enable minority business enterprises to be considered fairly equitably as subcontractors and suppliers. Fluor is well aware of its obligations as an employer and can assure the committee of our full compliance with all Federal laws and policies.*

A. Anstadt, Fluor Engineering and Contractors, Inc., letter to J. Richard Avena, SWRO, U. S. Commission on Civil Rights, Aug. 27, 1974.

146. *Employment data for the city of Farmington were derived from Form EEO-4 submitted by State and local governmental entities to the Equal Employment Opportunity Commission. Farmington officials provided this information to Commission staff.*

Table 16

MUNICIPAL EMPLOYMENT

FARMINGTON, NEW MEXICO

1974

Department	Number in Dept.	Anglo Male	Anglo Female	Indian Male	Indian Female	Spanish Male	Spanish Female
Administration	95	36	43	1	1	10	4
Airport	86	74	3	3	-	6	-
Police	72	51	15	2	-	4	-
Parks and Recreation	15	9	1	-	-	5	-
Housing Inspection	2	2	-	-	-	-	-
Planning and Zoning	1	1	-	-	-	-	-
Sanitation	54	28	-	4	-	22	-
Fire	33	29	-	1	-	3	-
Streets	29	24	-	4	-	1	-
Total	387	254	62	15	1	51	4

SOURCE: City of Farmington, State and Local Government Information (EEO-4), (1973). EEO-4 form was submitted to Commission staff by city officials.

> *This request goes to the city manager, [who] upon approval, returns the request to the personnel office. At that time, we go through our active applicant file and try to see if we have an...application on board. If we do, then we contact those people who have the earliest date....If we find someone who is not working and is available, we ask them to come into the office. We try to contact between three and five applicants. Then after the applicants come, we refer them to the departments here....These department heads review their application and then give them an oral interview....After the department head selects the person that he feels is the most qualified for the job, then he refers the applicant to the personnel office with this application and a note to process him. (vol. 2, p. 221)*

The personnel office receives approximately 17 to 20 applications a week, but "very few" from Navajos, Mr. Peterson said. The city has not conducted any type of affirmative recruitment programs for Navajo employees, nor, according to Mr. Peterson, has his office ever contacted the Navajo Tribe or Navajo community organizations concerning job openings in city government. The city does post job openings in the post office at the employment service and on bulletin boards at city buildings.

If the personnel office has no applications on file for a particular job, a request will be sent to the Employment Security Commission, which, at the time of the open hearing, was the prime contractor of the State of New Mexico for most manpower training programs. According to Mr. Peterson, the city has never requested Navajo applicants for referral. (vol. 2, p. 216)

In late 1973 the city of Farmington developed an affirmative action plan at the request of the Department of Labor when the city began administering the federally-funded Neighborhood Youth Corps Program. City agencies were included in the affirmative action plan. According to Mr. Peterson, the plan would be for 1 year and effective until December 1974. He told the Advisory Committee that there has been little or no monitoring of its provisions. For example, job positions are often filled without the required 5-day prior notification posting. (vol. 2, p. 229) Additionally, the city has not met the minimal requirements for increasing minority employment. The fire department, for example, forecast 15 vacancies in 1974, with 4 of the vacancies to be filled by Native Americans. At the time, the department had only one Navajo employee. By mid 1974, however, the fire depart-

ment had yet to hire additional Navajos.

The impetus to adhere to the affirmative action plan diminished when the city council in early 1974 decided to withdraw from the Neighborhood Youth Corps Program. Mr. Peterson indicated at the open meeting, however, that the city was awaiting final promulgation of testing guidelines from the Equal Employment Opportunity Coordinating Council (a Federal interagency council) before total implementation of an affirmative action plan in Farmington.

San Juan County government is headed by three elected commissioners, an elected treasurer, an assessor, and a sheriff. By State statute, each of these elected officials has the authority to hire and fire their own personnel.[147] County Personnel Director Lawrence Palmer indicated that his office has attempted to institute a merit personnel system, but this rested solely upon the cooperation of county officials. He stated, "If they don't want to cooperate, we can have a pure patronage system." (vol. 3, p. 35)

As of June 30, 1974, San Juan County had 83 full-time employees. Of these, 68 were Anglo, 10 were Spanish surnamed, and 4 were Navajos. Of the Navajo employees, three are employed with the county road department as laborers, and one is employed with the sheriff's department as a deputy.

The county personnel system relies mainly on walk-in applications. The county conducts no recruitment for any job openings. When a position becomes open:

> *The standard procedure is to go through the files, see who has applied for the job, call or contact the individual, find out which ones do not already have employment....Then we will interview and occasionally test those who are left to see who will be selected for the position. (vol. 3, p. 53)*

The county, at the present time, does not have an affirmative action plan.[148] Mr. Palmer indicated that the statutory provisions governing hiring by elected county official were not compatible with the

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147. Lawrence Palmer, county personnel director, interview in Aztec, N. Mex., July 31, 1974.

148. Ibid.

requirements of an affirmative action program. He added:

> *[I] would like to see the counties of the State of New Mexico have...the power to make a personnel ordinance. Then we can have a merit system. We can have an affirmative action program, but as it is now...the people that are elected officials coming in January [1975] could remove every person from their office. He could fire the whole batch and there wouldn't be anything I could do about it. (vol. 3, p. 56)*

Testimony at the Advisory Committee's open meeting and Commission staff investigations indicate that Navajos in San Juan County share unequally in the economic bounty of the area. This imbalance assumes added significance since the economic progress of Farmington and San Juan County is substantially founded upon the natural wealth of the Navajo Reservation.

More equal reciprocal relationships will not come easily. The primary requirement to resolve the many complex problems is a willingness to work together. According to Peter MacDonald, Navajo Tribal Chairperson:

> *All we seek is the right to live our lives without being exploited by those whom we benefit. We do not seek something for nothing. We are willing to work for our fair share of the goods and services. What we ask of this community is a demonstration of good faith and good will and a willingness to meet us halfway. (vol. 2, p. 269)*

ECONOMIC DEVELOPMENT: A DILEMMA OF CONFLICTING VALUES AND PRIORITIES - THE NAVAJO EXPERIENCE

We are treated as strangers in our land and among our own neighbors. It is the coal from our land which provides comfort to this entire region; yet we are discriminated against in jobs and services. It is our land that the transmission line carries energies to distant cities; yet, in many areas, there is no cooperation or no desire on the part of those who would take much benefit of our resources to give water or electricity to the home of the Navajos.

It is our water that tourists from distant cities use for recreation on Navajo Lake. Yet, a few miles away our own people live at the mercy of a drought. It is our land that is being ripped away to get at the coal beneath it, when our people need every inch of the land for survival. And oftentimes, it is necessary for us to even make some kind of livelihood for ourselves. We need these very lands for the continuing survival of our people.

It is our dollars that keep these shopping centers open. Yet, our people...are denied the opportunity to participate in the job market or [be] given a consideration for the services that people of Farmington take for granted. (vol. 2, p. 267)

Farmington, the sixth largest city in New Mexico and the largest within a 125 mile radius, has become the major focal point of economic activity in the region. The major economic developments anticipated in San Juan County within the near future are the proposed development of a number of coal gasification plants and the Navajo Irrigation Project. These activities will have a significant impact not only on the Navajo Reservation and the Navajo people, but also on Farmington and the surrounding region. The natural resources and the availability of water are vital to future growth in the county. The best use of these resources, however, has caused much controversy within the Navajo Nation.

The landmass of the United States contains some 3 trillion tons of coal, perhaps 88 percent of the reserve of fossil fuel energy on the continent and one of the largest anywhere in the world. Even at a vastly accelerated rate of consumption, the United States has enough coal to last 200 to 300 years or more.[149]

A significant portion of these coal reserves are found in remote areas of the western United States. The major coal resources of New Mexico are located in the San Juan Basin in the northwest portion of the State, with the majority of those resources located on the Navajo Reservation. On the Navajo Reservation the best source of coal is the Fruitland Formation which lies in an area running west and south of Farmington. In 1953 Utah International began exploring this area and found subbituminous coal located in four main seams ranging in depth from less than 20 feet to more than 200 feet. In 1957 the Navajo Nation granted Utah International a mining lease containing some 24,000 acres of coal-bearing lands. This lease, since expanded to cover 31,000 acres, contains an estimated 1.1 billion tons of coal.[150]

A key factor in the future economic development of San Juan County and the Navajo Reservation is the construction of several coal gasification complexes on the reservation. El Paso Natural Gas (EPNG) and the Western Gasification Company (WESCO) have proposed to construct concurrently two coal gasification complexes and attendant coal mines on the Navajo Reservation. Each of the complexes is designed to produce

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149. *Development Research Associates and Gruen Associates, Housing and Community Services for Coal Gasification Complexes Proposed on the Navajo Reservation, prepared for El Paso Natural Gas Company and Western Gasification Company (Apr. 1974), p. 1-1 (hereafter cited as Housing and Community Services for Coal Gasification Complexes).*

150. *Ibid., p. 1-2.*

from 250 to 288 million cubic feet of substitute natural gas per day.[151]

El Paso Natural Gas has assigned responsibility for the coal gasification plants to its synthetic fuels division. Mesa Resource Company will mine the coal and Fuel Conversion Company will produce the gas and deliver it to the EPNG southern division for distribution. Both companies are owned by El Paso.

Western Gasification Company (WESCO) is a joint venture of Pacific Lighting Corporation and Texas Eastern Transmission Corporation through their respective subsidiaries, Pacific Coal Gasification Company and Transwestern Coal Gasification Company. Pacific Lighting, through another subsidiary, Southern California Gas Company, serves retail customers in California; Texas Eastern delivers natural gas to public utilities at various locations.[152]

Coal for the WESCO project will be mined by Utah International, but the coal gasification plant will be owned and operated by WESCO. Pipeline quality gas will be transported to customers by Transwestern Pipeline Company, a subsidiary of Texas Eastern. Fluor Engineers and Constructors, Inc., of Los Angeles, is the design engineering consultant to WESCO.

All of the proposed gasification complexes will be located on the reservation in the vicinity of the Burnham, Fruitland, Nenahnezad, Sanostee, and Two Grey Hills Navajo Chapters (or areas). (See Figure 5).[153] According to the BIA, approximately 7,000 Navajos live in these five chapters.

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151. Basic coal gasification involves adding oxygen and steam to coal under conditions of heat and pressure to form a substitute gas composed of hydrogen, carbon oxides, methane, and various sulfur compounds. The carbon dioxide and sulfur compounds are then removed, leaving a usable gaseous fuel having a low BTU content. This gas is sometimes referred to as "town gas." To this process will be added a further step, methanation, which will increase the heating value of the gas from about 415 BTU to about 972 BTU per standard cubic foot. Three pilot plants have proved the methanation step. A small size demonstration plant program will have been completed on the reservation before either complex begins full-scale production.

152. Housing and Community Services for Coal Gasification Complexes, p. 1-7.

153. Battelle Columbus Laboratories, Detailed Environmental Analysis Concerning a Proposed Coal Gasification Plant, for Transwestern Coal Gasification Company, Pacific Coal Gasification Company and Western Gasification Company, and The Expansion of a Strip Mine Operation Near Burnham, New Mexico - Utah International, Inc., Feb. 1, 1973, Columbus, Ohio, p. 2.66 (hereafter cited as Detailed Environmental Analysis).

LOCATION OF NAVAJO CHAPTERS IN THE VICINITY OF
THE PROPOSED COAL GASIFICATION COMPLEXES

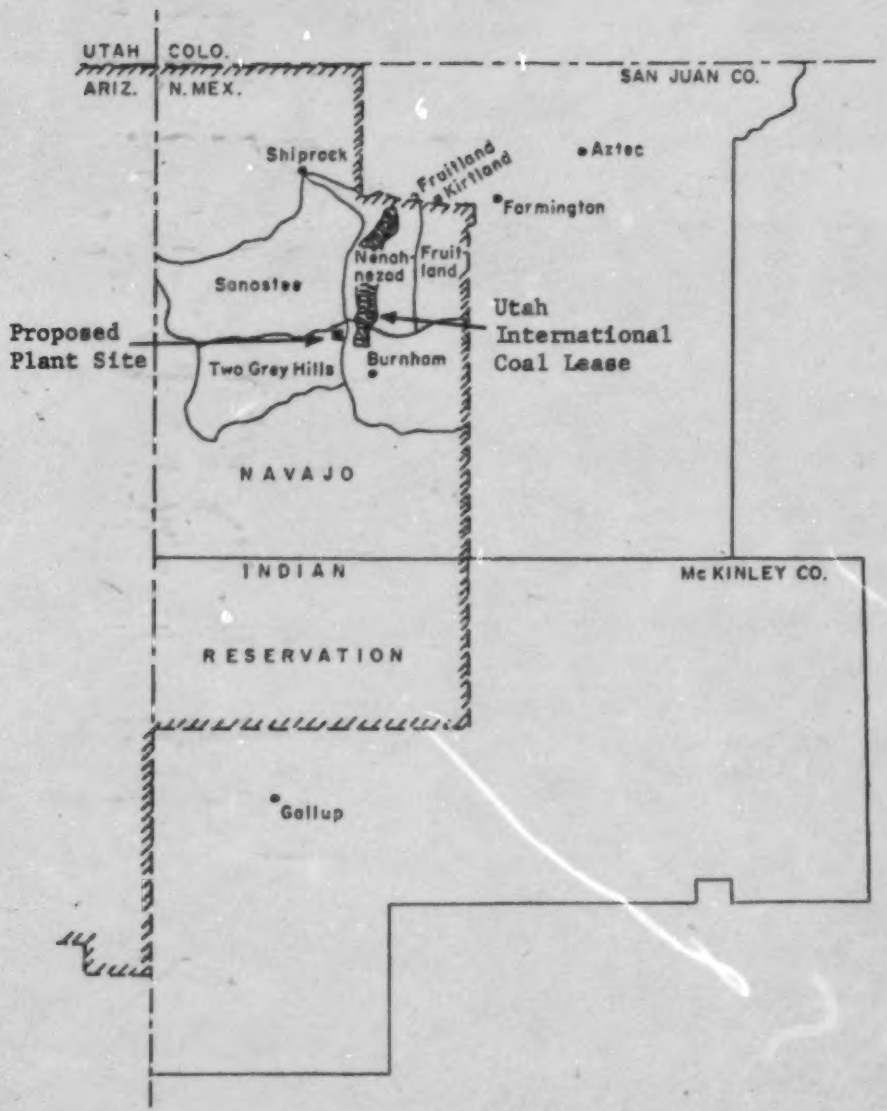

Figure 5

Source: Battelle Columbus Laboratories, Detailed Environmental Analysis Concerning a Proposed Coal Gasification Plant (February 1973).

Before the construction of the coal gasification plants can begin, El Paso Natural Gas, Western Gasification Company, and Utah International, are required to negotiate a lease with the Navajo Tribe. At the present time, such discussions are taking place. The proposed location of these plants, however, has received much criticism from within the Navajo Nation. The Burnham Chapter, which is located closest to the proposed plant sites, recently passed a resolution rejecting any plans for setting up such plants in its area. Harris Arthur, an instructor at the Shiprock Branch of the Navajo Community College and representative for the Burnham Chapter, read the resolution to the members of the Advisory Committee, which stated, in part:

> *The construction of coal gasification plants in the Burnham area will displace 90 families in connection with the El Paso lease and an unknown number of additional families in connection with the Utah lease....No commitment, assurance, or plans on the part of the companies or the Tribal administration for the actual relocations to new areas of these families have been presented to the Burnham Chapter....(vol. 2, p. 178)*

The resolution noted that the plants will deprive the residents living in close proximity any means of livelihood since most of them now make their living herding livestock. Furthermore, Mr. Arthur said, grazing lands will be devastated with no real assurance that the land can be reclaimed or that proposed emission controls will be effective:

> *Any benefits promised to the Navajo Tribe and any monetary compensation to individuals cannot pay for the devastation of the land and the social upheaval that will be the result of seven coal gasification plants being built in the Burnham area. (vol. 2, p. 179)*

The importance of the gasification projects to fulfill future energy needs was reported in an article in the Albuquerque Journal:

> *The comfort of 3 million households in Southern California might depend on the coal gasification plants about to be built in the rolling sandhills here on the Navajo Reservation....Without it... residential customers of Southern California Gas Company, and San Diego Gas and Electric Company*

can expect to have their use of natural gas curtailed in 1979.[154]

The relative value of these energy gains, however, must be balanced against the potential impact of the coal gasification projects on the Navajo--their way of life and their land.

It is estimated that the construction of the proposed coal gasification plants will take 29 months, and provide a rapid short-term fluctuation in construction activity in San Juan County. In a period of 29 months, the demand for construction workers, disregarding other construction activities in the county, will increase from zero to 3,650 workers and then decrease once again to zero.[155] This indicates a temporary influx of workers into the county for a period probably no longer than 2 years. During that time, they will be demanding services, and economic stimulation will come in the form of increased income and purchasing power in San Juan County.

It is estimated that construction activities could generate a total of approximately $73 million in wages paid during the 29-month period. The total wages paid will yield approximately $62.5 million in additional disposable income (income after taxes) in San Juan County. This is equal to approximately 75 percent of total annual disposable income in San Juan County at present.[156]

Because there will be a change in the level of jobs in construction, mining, and utilities, there will be increased employment in those industries which provide services to the primary growth industries. With expansion of primary jobs, the population is expected to grow; and the job market in San Juan County will increase to provide necessary services.[157]

San Juan County is expected to experience steadily decreasing levels of population and employment without the plants. If the plants

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154. *Albuquerque Journal, "Gasification Plants 'Vital' to California," July 7, 1974, B-8.*

155. *Three types of construction employment - supervisory personnel, field construction workers, and subcontractors - have been identified. Detailed Environmental Analysis, p. 4.17.*

156. *Ibid., p. 4.19-4.20.*

157. *Ibid., p. 4.20.*

are not built, it is estimated that population will decline by about 3,500 by 1985. Employment totals without the plant will remain almost stable over the next 25 years. With the plants, however, it is estimated that total employment in the area will increase by approximately 4,000 jobs. Table 17 below gives a series of projections of the potential employment and population impacts of WESCO's coal gasification plants.

Table 17

Estimated Population/Employment Ramifications of the Proposed Coal Gasification Plants 1970

	1970	1975	1980	1985	1990	1995
Population						
With Plant/Mine	52,485	52,265	55,107	55,706	54,072	51,536
Without Plant/Mine	52,485	51,107	50,158	48,975	47,379	45,179
Percentage Difference	0	2.2	9.9	12.7	14.1	14.1
Employment						
With Plant/Mine	15,171	17,390	18,351	19,037	19,344	19,502
Without Plant/Mine	15,171	15,150	15,135	15,138	15,108	15.022
Percentage Difference	0	14.8	21.3	25.8	28.0	29.8

SOURCE: Detailed Environmental Analysis

In the crucial area of job training, little planning for future needs has been executed although large numbers of skilled workers will be needed for both the coal gasification plants and the Navajo Irrigation Project. Dr. Eva Benally of the Navajo Community College on the reservation discussed how devastating this failure could be:

> *Equal employment becomes an empty promise... if there are no means for training and education in this area of northwest New Mexico.... Unless we can find the funds to establish the needed training programs, the various industrial and agricultural developments will not be staffed by Navajos....[The] skilled, professional, and managerial jobs will be held by whites and perhaps a few blacks and Chicanos. (vol. 2, p. 162)*

Staff of the Navajo Community College prepared a preliminary analysis of educational and training needs based on manpower data obtained from a number of major employers in the area. The data, presented at the open meeting, indicated that by 1976 the following Navajo personnel will be needed:

> *...four years or more of college work, 300 to 400 personnel; 2 to 3 years of post secondary education, 400 to 500 personnel; 3 to 4 years of apprenticeship with high school or equivalent education, 250 to 300; high school or equivalent, plus short-term training, 1,500 to 2,000 personnel.*
>
> *By 1983, twice as many workers will be needed in each of the above categories, and these numbers will increase steadily through 1987 or 1988. In addition to these workers, some 5,000 or more construction workers will be needed beginning in 1975 or 1976. (vol. 2, p. 163)*

The prospects for Navajos providing the needed manpower, however, are not optimistic. Dr. Benally stated:

> *[Present] training and education will provide only a very few of the needed manpower, and except for certain professionals in educational programs, which are a primary Tribal effort, will meet only a minor part of the needs for Navajo teachers. The basis for the foregoing assumption is a review of the present training and education programs in the area, and review of the major fields of study of students in colleges and universities.*
>
> *Detailed statistics sent out by the college staff and others make it clear there is little or no training going on for...technicians....We have no training facilities, no shops, no laboratories, no equipment. We are conducting classes in rooms the BIA has been kind enough to provide us. But in order to meet the needs for educated and skilled Navajos, we must have facilities and equipment. This is a crucial point that must be faced in all the talks about equal opportunity. It is empty talk as long as the Navajos are not given the chance to develop their own institutions to provide the training that they need. (vol. 2, pp. 164-165)*

The impact of the proposed coal gasification plants on the social environment of the Navajo Reservation are more difficult to predict or evaluate. The main benefit associated with this project will accrue to people living more than 600 miles from the actual production

site. Residents of both the reservation and nonreservation areas surrounding the site will receive not only the benefits associated with development of a large local industry, but will also pay the social costs.

The Navajo population in the reservation areas immediately surrounding construction and mining sites will be most affected by the negative and positive impact of the plants. Increased employment opportunities for Navajos, especially during the construction phases of the project, is expected to result in the growth of the area's population through the inmigration of construction employees.[158] Population increase in the Burnham area could possibly include as many as 2,500 construction employees and their families. However, a population increase of this magnitude would have a strong negative impact. Because all land within the Burnham Chapter is currently allocated through grazing right agreements, residents would have to relocate or share grazing lands and home sites of local relatives.[159]

Plant and mining operations will also have effects on local health and safety conditions. The exact nature of these effects however, are disputed by the coal gasification companies and environmentalists.

WESCO, for example, states:

> *Some generalizations may be made at this point on disposition of the metals. New Mexico coal contains less heavy metals than many eastern coals. The gasification process itself does not result in significant atmospheric emissions. The ash containing up to 60 or 70 percent of some of these metals will be disposed of in the mine in a manner which does not affect the subsurface water. By far the greater part of the remaining metals will be removed downstream of the gasifiers in various processes for the purification of the gas and the extraction of liquids at temperatures as low as 50°F. Most of these metals will end up in a sludge which will be disposed of according to an analysis of its contents in compliance with all applicable laws and regulations. Where coal is used in boilers rather than gasified, there will be liquid scrubbing and lower temperatures than are experienced in present*

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158. Ibid., p. 4.29.

159. Ibid.

> *installations, resulting in reduced emissions of heavy metals.*[160]

Dr. Charles L. Hyder, a staff scientist with the Southwest Research and Information Center, a public interest group operating out of Albuquerque, contradicted WESCO's contention. Dr. Hyder said:

> *...based on fundamental chemical considerations, you can anticipate that the emissions like lead, mercury, and arsenic, would escape in large quantities from coal-burning plants. (vol. 3, p. 261)*

On this assumption, Dr. Hyder proceeded to study the environmental impact of the Four Corners Plant located in Fruitland. He stated at the open meeting:

> *We predicted that a large fraction of the mercury that was in the coal in the plant would come out into the atmosphere and [be] a toxic problem for people between the Four Corners Plant and 40 miles from the plant depending on the direction of the prevailing winds....The material accumulates on the surface and forms a layer of mercury that would be toxic to people living in the vicinity. (vol. 3, p. 261)*

Dr. Hyder added:

> *The industry denied all this. They said maybe 2 percent gets away. So the Public Service Company of Arizona funded a study. They found that 98 percent got away. So nothing happened. Nobody did anything. They still haven't done anything. (vol. 3, p. 261)*

Given the possibility that the emissions generated from the proposed coal gasification plants may be harmful to persons living in close proximity, Dr. Hyder suggested that drastic action would be required.

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160. Dan Cook, manager for industrial relations, WESCO letter to Ernest Gerlach, SWRO, U. S. Commission on Civil Rights, Oct. 28, 1974.

> *Since there is such great potential for chronic toxic poisoning of everybody living within 5 miles of any single gasification plant and everybody within 13 miles of Burnham (the center of the seven compounded gasification plants), the proposing industries (WESCO and El Paso Natural Gas) must demonstrate that the amounts of arsenic, cadium, mercury, and lead in combination will not bring harm to the indigent populations surrounding the proposed plant sites. Otherwise, everyone must be moved out of the implicated areas in and around Burnham or the gasification plants must not be built and operated.*[161]

The responsibility for action, Dr. Hyder pointed out, rests with El Paso Natural Gas and WESCO:

> *They have obviously never heard of ethical or religious laws which make us all responsible as 'our brothers keepers' not to insult anyone's personal rights to clean air even if there are no explicit written laws or regulations on the subject.*[162]

At the outset of construction and again when plant operation begins, housing supplies both on the reservation and in Farmington will be severely taxed to meet the demands of plant employees. The existing housing stock will certainly not be able to afford all newcomers the accommodations they desire. El Paso Natural Gas and WESCO, anticipating this need, did commission a study of housing needs relative to the coal gasification project. This study recommended the establishment of a new town on the reservation[163] to handle the expected increase in population. No further planning however, has yet been done.

The existing pattern of social organization in the Burnham area, characterized by extended family residence groups and clan

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161. Charles L. Hyder, Ph.D., staff scientist, Southwest Research and Information Center, letter to Ernest Gerlach, SWRO, U. S. Commission on Civil Rights, Nov. 6, 1974.

162. Ibid.

163. See Housing and Community Services for Coal Gasification Complexes.

allegiance, will undoubtedly be disturbed by gasification plant development. The influx of more than 500 Navajo construction workers, many with their families, into the area will produce major changes in the current patterns of social organization:

> *These major shifts in population numbers and types, along with smaller numbers of relocations resulting from plant construction, surface excavation, and highway placement will significantly alter social organization in the Burnham area. The dominant settlement pattern will shift from extended family camps, each with its own grazing areas, to territorially unconfined nuclear families and individuals. Clan affiliations and positions of authority will become blurred with the great degree of social diversity brought to the area. Thus, individual behavior patterns will not be as tightly constrained and regulated as in the traditional Navajo communities.*[164]

Furthermore:

> *The large influx of employees and their families into Farmington and other areas of San Juan County associated with construction and operation of the gasification plant will have discernible effects on existing patterns of social organization. Increased migration of Navajos and other minorities into primarily Anglo towns and cities brought about by new employment and stable incomes will probably result in intensified residential and social segregation. Employees drawn from different sections of the county will provide some cultural diversification with the non-Navajo population.*[165]

A chief concern of many Navajos is the depletion of natural resources attendant to the coal gasification project. As Ken Rustad, director of Economic Opportunity Council for San Juan County, said:

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164. Detailed Environmental Analysis, p. 4.35.

165. Ibid.

> *I think in the Southwest we are beginning to realize we are sort of a colony of California or the bigger cities in the Southwest....I think the whole area is being sort of steam-rolled by the energy crisis, by the needs of California and larger cities for various resources, including and probably the most critical: water.*
>
> *Every time Albuquerque needs more water, they look at the San Juan River. Phoenix, I know, is looking for water as well as Mexico and the Imperial Valley in California. They all look to this system because this seems to be where the surplus is.*
>
> *We have been divided in the sense that I think people in Farmington should realize that these are [regional] resources....[Whether] they are [regional] resources or [Navajo] Indian resources, they are still being transferred to ...[other parts of the country]. (vol. 3, p. 102)*

Lucy Keeswood, a member of the Coalition for Navajo Liberation, summarized the concern for the future of the Navajo Tribe:

> *Where will we all be 20 or 25 years from now when the coal has all been consumed and the companies operating these gasification plants have cleaned up all the resources and moved away. There will be nothing there; they will be working elsewhere and we will be sitting on top of a bunch of ashes with nothing to live on. This is what the white man is driving us to....(vol. 3, p. 187)*

Another major development which may have a tremendous impact on the economy in San Juan County and the Navajo Reservation is the Navajo Irrigation Project.

A treaty between the Navajo Tribe and the United States recorded promises made by the Federal Government, including a provision that land would be provided for Navajos to farm. Since the land is dry but fertile, the development of irrigation facilities was necessary. To meet that need, the 87th Congress authorized construction of the Navajo Indian Irrigation Project by its act of June 13, 1962.[166]

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166. 43 U.S.C. §615ii(1962).

This act designated the Navajo Indian Irrigation Project under the Bureau of Indian Affairs and placed responsibility for the construction of dams, tunnels, and other major features in the hands of the Bureau of Reclamation, Department of the Interior. The project area consists of 110,630 acres of Navajo Tribal land located south and southwest of Farmington.

The water supply for the project will be impounded behind the Navajo Dam, one of the key multiple-purpose structures of the Upper Colorado River Development Project. Water will be released from the reservoir to the main canal conveyance system to irrigate more than 100,000 acres of land adjacent to the Navajo Indian Reservation.[167]

The Navajo Indian Irrigation Project area is expected to begin producing crops in 1976 when construction, now scheduled, will bring water to the first block of almost 10,000 acres of project land. Cultivation of land and production of crops will progress in incremental 10,000 acre blocks until a total of 110,630 acres are brought under cultivation by the late 1980s. (vol. 3, p. 103)

There has been opposition to the irrigation project, however, mainly from Navajo families living within the project area. As one witness stated:

> *The irrigation project developed millions of dollars to lay down canals and things like that and yet they are relocating people, changing their lifestyle, practicing social engineering with no priority of funding or concern over this type of thing. (vol. 3, p. 103)*

Serious discussion has arisen over the proposed organization for production emphasizing large tribal enterprises rather than the smaller family-sized farm. Phillip Reno and Dr. Bahe Billy, the director for the Navajo Irrigation Project, noted:

> *American AID teams in developing countries have found that family-sized farms are generally more efficient than large-scale farms. In rural areas, including reservation areas, several studies conducted by the Land Tenure Center and others*

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167. Ibid.

> *in Latin America and elsewhere show that output per unit is inversely related to farm size.*[168]

The vital requirements for farm productivity, they concluded, are incentive and opportunity. Family farms provide a broadly-based incentive; and, as a rule, large corporate farms do not.[169]

It has been estimated that the irrigation project will ultimately provide between 2,000 and 3,000 jobs.[170] Maximizing the Navajo share of the total employment depends, in part, on the establishment of meaningful education and vocational training programs for Navajos, integrated with comprehensive manpower planning. To date, little has been accomplished to fulfill these tasks.[171]

Major economic and social upheavals are rapidly approaching San Juan County. Navajo coal deposits south of Farmington now generate electricity in huge power plants and will shortly be used in even larger plants producing methane gas. In 1976 the Tribe will begin production on what will be, when completed, one of the largest irrigated agricultural enterprises in the country. As these enterprises develop, thousands of workers, both Indians and non-Indians, will be brought into integrated plants and communities. Nevertheless, the companies, the community, and the Tribe have hardly begun to plan for the social problems that this influx will bring, and for its impact on the Navajo society.

As Harris Arthur explained:

> *If we can be given the opportunity to develop, like the rest of America developed, if the work coming from the pastoral traditional society, if we could pass through or go through what rural America went through 30 years ago and grow into the industrial state, we might have a better chance of surviving. But to dump heavy industrialization on a traditional society [will] just wipe them out.*

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168. *Phillip Reno and Dr. Bahe Billy, "Navajo Indian Economic Planning: The Navajo Indian Irrigation Project," New Mexico Business, Nov. 1973, p. 5.*

169. *Ibid.*

170. *Ibid., p. 7.*

171. *Ibid., p. 8.*

We have an opportunity right now to..,grow this way from the Navajo irrigation project....The Navajo irrigation project is large enough that it has a significant impact on the total economic spectrum of Navajos. There are 111,000 acres in the project. This would give us a chance to upgrade our technology, capabilities; we would create the capital surplus through the irrigation project...invest these surpluses into industrial development. Then we can be capable, probably, of handling heavy industrialization.

As it is, if we stick these things into there tomorrow, or next week, it would be disastrous. The Navajos would lose total control of their resources. When you lose control of your resources, you create a further dependent State. You will never, never, accomplish or reach the goal that we have set which is self-determination and self-efficiency. (vol. 2, pp. 183-184)

FINDINGS AND RECOMMENDATIONS

Based upon its investigation, the New Mexico Advisory Committee to the U.S. Commission on Civil Rights reports the following findings and recommendations:

Community Attitudes and Responses

Finding #1:

The New Mexico Advisory Committee finds that many elected public officials in Farmington - as well as civic, business and professional leaders - have generally failed to assume a sense of active responsibility for promoting positive and productive relationships among the diverse segments of the population which they serve. The Advisory Committee also finds that to a large extent there appears to be little awareness on the part of the general population in Farmington regarding the very complex social and economic problems arising out of this city's unique relationship with Navajo people residing on the reservation.

Recommendations:

The New Mexico Advisory Committee strongly recommends that the city immediately appoint a permanent human relations committee representative of all significant racial, cultural, and economic groups in the community. Among the purposes of this committee would be the development of formal recommendations to the mayor and the city council (and other appropriate entities) for enhancing the awareness of all citizens and promoting respect and understanding among the many diverse interests in Farmington. Because of the significance of this committee's task, the Advisory Committee further recommends that the city provide it with adequate resources and be supportive of its efforts.

The Advisory Committee also recommends that the city of Farmington take the initiative in establishing a cultural awareness center using existing institutional resources, such as the Navajo Community College on the reservation and the San Juan campus of New Mexico State University. This center would familiarize non-Indian persons with Navajo culture, history, customs, and language. Local businesses and industries should contribute to the support of such a center, as should municipal, county, and school officials.

The Advisory Committee also recommends that the Board of Education of the Farmington Independent School District establish a policy requiring all students attending the public school system to participate in structured programs designed to promote multi-cultural awareness and understanding.

Finding #2:

The New Mexico Advisory Committee found no mechanism available in Farmington to investigate and process complaints alleging discrimination.

Recommendations:

The New Mexico Advisory Committee recommends that the city of Farmington develop and adopt a strong, enforceable anti-discrimination ordinance which provides resources for investigatory action and sanctions for those found to be in violation of its provisions. The Advisory Committee feels that such an ordinance can serve as an effective deterrent to overt acts of discrimination and exploitation and contribute toward a climate wherein instances of racial prejudice are less likely to occur.

The Advisory Committee further recommends that the human relations committee serve as the local mechanism for handling complaints alleging discrimination. To be effective, however, this committee must have a free hand to investigate and enforce its decisions. The role of this committee should be carefully defined in the above ordinance.

Finding #3:

The New Mexico Advisory Committee finds that the community of Farmington has failed to initiate aggressive and coordinated planning efforts to address many of the critical problem areas identified by witnesses at the August open hearing. Health, employment, police-community relations, social services, and economic growth are all areas which require attention and programming initiatives by responsible

public officials. Yet, as this report shows, adequate solutions to these problems remain to be developed or implemented. Isolated attempts have been made by a variety of different individuals and organizations to cope with a multitude of social and human problems, but no comprehensive planning effort has been officially undertaken by the city of Farmington to address these issues in a coordinated manner.

Recommendations:

The city of Farmington should immediately establish a human resources department within its official structure and provide it with resources necessary to conduct a comprehensive assessment of present and future human social needs. The department should respond directly to the mayor and city council, but work closely with the human relations committee recommended above. This department should conduct intensive planning and aggressively seek resources necessary to provide the services and solutions required to meet community needs. Potential sources of assistance at the Federal level might include revenue sharing, the Community Development Act, the Comprehensive Employment Training Act, and a broad spectrum of categorical grant-in-aid programs. State, county, and municipal revenues should also be utilized to support the department and its programs.

The human resources department should also insure positive and continuous planning and program coordination with other planning agencies (such as the State Planning Office, Criminal Justice Council, Four Corners Regional Commission, and Council of Governments), as well as with public officials at the local, State, Federal, and Tribal levels. This is imperative because the most severe problems facing Indian people in Farmington cannot be fully resolved without the combined commitment and energies of all governmental jurisdictions.

Administration of Justice

Finding #1

The New Mexico Advisory Committee finds that the Farmington Police Department employs a disproportionately low number of Native Americans in all aspects of police work. At the time of the open meeting in Farmington, only 3 out of a total staff of 74 were Navajo. Furthermore, the Advisory Committee finds that the Farmington Police Department has not placed sufficient emphasis on recruiting Native Americans for police work, despite the fact that they constitute nearly 7 percent of the population in Farmington.

Recommendations:

The New Mexico Advisory Committee strongly recommends that the mayor and the city council immediately instruct the chief of police to develop and implement an affirmative action plan to increase the number of Native Americans and other minorities on the police force and that this plan include numerical goals and timetables.

The Advisory Committee further recommends that the chief of police and staff of the city's personnel department immediately undertake a complete review of the qualifications presently used for appointing police officers and eliminate all requirements that are not job related or directly related to the performance of an officer. Careful inspection for qualifications which might reflect cultural bias against Native Americans and other minority groups should be conducted with the assistance and advice of a special committee composed of Native Americans and other minority persons.

The Advisory Committee also feels that an innovative plan of recruitment is essential to increase the number of Native Americans on the city's police force. One aspect of this recruitment effort should be to improve the image of the police department, especially with respect to minority groups. Therefore, the Advisory Committee recommends that the police chief initiate a community education program to reach all groups in the community to increase the public's understanding of police objectives, operations, problems, and needs.

The Advisory Committee also recommends that the police department actively recruit Native Americans for police work by making contact with existing Indian organizations both on and off the reservation and by going directly into the Indian community to seek out individuals who are interested in law enforcement. Moreover, there must be an affirmative effort to reach the Indian community through the use of media such as the Navajo Times and the various Navajo radio stations.

The Advisory Committee believes that it is important that the city of Farmington and the chief of police commit themselves to aggressively pursue the goal of achieving a more balanced racial/ethnic composition on the police force within a reasonable period of time.

Finding #2:

The New Mexico Advisory Committee finds that the community relations program of the Farmington Police Department has been ineffective in promoting understanding between the police and the community, especially the minority community in Farmington. Instead of a comprehensive effort

to acquaint the police and the community with each other's problems and seek to resolve them, the program has been essentially a limited effort emphasizing stop-gap measures. Present efforts also have been hampered by a lack of commitment on the part of the chief of police and inadequate funds and personnel.

Recommendations:

The New Mexico Advisory Committee recommends that the chief of police immediately upgrade the Community Relations Unit of the Farmington Police Department in terms of staff and budget. Furthermore, the chief of police should commit himself to the development of a long-range, comprehensive program to acquaint the police and the community with each other's problems and to stimulate action to solve those problems.

The Advisory Committee believes that community relations should be the function of the entire police department and not just of one segment. Therefore, the Advisory Committee recommends that all police personnel should be required to participate in this program. This will be an important initiative toward achieving greater interaction between the police and the community in general.

The Advisory Committee also feels that it is crucial to the success of this program that a procedure be established through which the police department can receive input from the community. Consequently, the Advisory Committee recommends that the Farmington Police Department institute a citizens' advisory group consisting of local public officials and private citizens representing every segment of the community, including adequate minority representation. This advisory group would help to develop and define police policy, serve as a link between the community and the police department, and act as an instrument for developing priorities for the department.

The Advisory Committee further recommends that the city of Farmington and the police department immediately seek funds from the Law Enforcement Assistance Administration (LEAA) of the U.S. Department of Justice and the State of New Mexico to implement an expanded community relations program in the shortest time possible.

Finding #3:

The New Mexico Advisory Committee finds that although police officers often come into contact with minority citizens on a daily basis, there is no requirement by the Farmington Police Department to provide any kind of cultural awareness, sensitivity, or human relations training to its officers.

Recommendations:

To bridge the widening credibility gap between the police and the minority community, to sensitize and educate local police officers on the Navajo culture and thus improve their effectiveness in relating with the substantial Navajo population, and to make the police more responsive to the needs of the total community, the Advisory Committee recommends that the Farmington Police Department immediately develop and implement a special training program for its officers in human relations. This program should require at least 40 hours of human relations training for each officer and be mandatory for all police officers in the department.

The Advisory Committee feels it is imperative that the local Navajo community and other minority groups in Farmington have input into the planning, design, and implementation of this program. The Advisory Committee recommends that the city of Farmington and the Farmington Police Department seek funds from the LEAA and the State of New Mexico. The city of Farmington should also increase the budget of the Farmington Police Department to provide for additional staffing and facilities needed to implement this program on a continuing basis as an integral part of the total training process. The Advisory Committee further recommends that the city of Farmington and the Farmington Police Department seek assistance from the Law Enforcement Academy in Santa Fe, the Navajo Community College in Shiprock, the San Juan Branch of the University of New Mexico, and the New Mexico Commission on Indian Affairs to implement this program.

Finding #4:

The New Mexico Advisory Committee finds that the crime rate among Navajos in Farmington is substantially higher than for non-Indians, and that the vast majority of those Navajos taken into custody are arrested for alcohol-related crimes. The Advisory Committee also finds that the liquor laws in Farmington and San Juan County are not adequately enforced.

Recommendations:

The New Mexico Advisory Committee strongly recommends that the State Department of Alcohol Beverage Control, the Farmington Police Department, the San Juan County Sheriff's Department, and the State Police, with assistance of the Navajo police, immediately establish a special mobile task force to vigorously enforce State liquor laws in the city of Farmington and in San Juan County.

The Advisory Committee further recommends that the State Department of Alcohol Beverage Control immediately increase the number of agents in the region to adequately enforce State liquor laws. In conjunction with this, the Advisory Committee recommends that the Governor seek, and the State enact, legislation substantially increasing the budget of the State Department of Alcohol Beverage Control so that it can effectively carry out its mandate. Furthermore, the Advisory Committee recommends that the Department of Alcohol Beverage Control continue to scrutinize every application for a license to sell alcoholic beverages in San Juan County, and maintain its surveillance over existing establishments to see that they are complying with State laws. The Advisory Committee strongly recommends that a moratorium on all new licenses authorizing the selling of alcoholic beverages in San Juan County be established at least until the present situation is brought under control.

The Advisory Committee, in the course of its 3-days of open meetings, heard testimony indicating that every bar in Farmington is required to have both a State license and a city occupancy license to operate their businesses within city limits. The Advisory Committee also heard testimony that the city council has the power to revoke a business license if a violation of city ordinances occurs. Therefore, the Advisory Committee recommends that the city of Farmington immediately establish a local mechanism under the court's supervision to handle all complaints alleging the violation of State and local ordinances regarding the sale and consumption of alcoholic beverages in the city, and to take active measures to enforce these laws.

Finally, the Advisory Committee sees the overall problem as not being merely one of enforcing the laws. The problems of alcohol abuse have social and economic ramifications. Therefore, the Advisory Committee recommends that the Criminal Justice Planning Council of San Juan County undertake a comprehensive study to determine the extent of the alcohol abuse problem. This study should examine the full impact of alcohol-related crimes that occur in San Juan County. A determination should be made as to the degree to which violations of liquor laws occur in the county and an evaluation of the effectiveness of local and State law enforcement agencies and dealing with these infractions.

Finding #5:

The New Mexico Advisory Committee finds that Native Americans who appear in municipal court in the city of Farmington are at a serious disadvantage because they must often communicate in a language other than their mother tongue. Testimony at the open meeting repeatedly attested to the fact that many Navajos were not able to fully understand the nature of the proceedings when they appeared in court. The Advisory

Committee also finds that the Farmington municipal court does not hire professional translators but depends on untrained employees and prisoners to interpret for defendants who cannot speak English. Under this system there is no way of determining the accuracy of the translation.

Recommendations:

The New Mexico Advisory Committee recommends that the municipal court in Farmington immediately recruit and hire qualified interpreters to assist defendants who have difficulty communicating in English. The interpreters would inform the defendents of the proceedings and the charges, if any, being brought against them and would accompany public defenders, if the need arises, to help interview Navajos.

Alcohol Abuse and Alcoholism

Finding #1:

The New Mexico Advisory Committee heard extensive testimony describing alcoholism and alcohol abuse as being a pervasive and profound problem affecting the Navajo people. In the city of Farmington, the Advisory Committee finds the situation especially critical. Arrest patterns among Navajos in Farmington, indicate that the vast proportion of all Navajos arrested are incarcerated for alcohol-related crimes. An analysis of police records in Farmington undertaken by Commission staff reveals the extent and severity of the alcohol-abuse problem among Navajos. Over a 5 year period (1969-1973), approximately 15,000 Navajos have been arrested for alcohol-related offenses. Since the passage of the Detoxification Act by the New Mexico State Legislature in 1973, more than 3,800 Navajos have been placed into protective custody by the Farmington Police Department. During 1973 Indian arrests constituted more than 80 percent of all arrests in Farmington; approximately 90 percent of these arrests were alcohol-related. Moreover, testimony indicated that at the time of the open meeting there were no facilities or treatment programs in Farmington, San Juan County, or on the Navajo Reservation.

Recommendations:

The New Mexico Advisory Committee recommends that the Governor, as chief executive of the State of New Mexico, and the Chairperson of the Navajo Nation, immediately establish a joint task force consisting of but not limited to officials of the Navajo Tribe, representatives from the Bureau of Indian Affairs and the Public Health Service/Indian Health Service Division, State officials from the New Mexico Commission on

Alcoholism, the New Mexico Commission on Indian Affairs, the Department of Health and Social Services, local officials from Farmington and San Juan County, knowledgeable citizens representing all segments of the community in Farmington, and Indian leaders from such organizations as the Coalition for Navajo Liberation and the Farmington Intertribal Indian Organization. The purpose of this joint task force will be to assess the nature and extent of the alcohol abuse and alcoholism problems among Navajos in the region and to develop a comprehensive and coordinated plan to solve these problems.

The Advisory Committee believes that no long term solutions can be achieved without taking a regional perspective and developing a comprehensive approach to resolving alcohol-related problems. These problems affect not only the Navajo people on the reservation, but also the communities that border the reservation, and encompass such diverse but related areas as unemployment, recreational needs, and family instability.

The Advisory Committee also recommends that the San Juan Council of Governments with assistance from the New Mexico Commission on Alcoholism immediately establish a citizens' committee composed of local public officials, representatives from the medical community, Indian organizations, and private citizens to work with public and private organizations at the community level to develop a comprehensive alcoholism program for the city of Farmington and San Juan County. This committee could also serve as an advisory group to the mayor of Farmington and the County Commissioners to: develop, encourage, and foster local educational activities relating to alcohol abuse and alcoholism; provide technical assistance, guidance, and consultation to schools, professional groups, institutions, community organizations; and, disseminate educational materials. This committee would serve as a coordinating body to work with pertinent city and county departments in seeking State and Federal funds to implement programs at the local level.

Finding #2:

The New Mexico Advisory Committee finds that there are few programs in Farmington or in San Juan County that are able to deal comprehensively with the tremendous alcohol abuse and alcoholism problem. The Advisory Committee also finds that despite the critical nature of the problem, there appears to be a serious lack of commitment on the part of local public officials to deal with it.

Recommendations:

The New Mexico Advisory Committee strongly recommends, as a matter of general public policy, that the mayor and the city council of Farmington give a high priority towards solving the alcoholism and alcohol abuse problem among Navajos in this city.

The Advisory Committee also recommends that the mayor and the city council actively voice their support of the present efforts being made by the Totah Council on Alcoholism, Alcoholics Anonymous, and other local organizations dealing with the problems of alcoholism and alcohol abuse in Farmington and San Juan County. Beyond this, the Advisory Committee also recommends that the city immediately seek the assistance of the New Mexico Commission on Alcoholism regarding funds to establish a sleep-in facility to accommodate at least 50 persons on a daily basis. This facility would serve mainly as a temporary resting area where people could go or be brought in by the police to sober up.

The Advisory Committee further recommends that the mayor and the city council immediately seek funding from the State and/or Federal Government to establish a co-educational halfway house as a long-range solution to the general problem of alcohol abuse and alcoholism in Farmington and San Juan County. This facility, unlike the sleep-in facility recommended above, would provide long-term rehabilitative services to alcoholics.

Both the National Institute on Alcohol Abuse and Alcoholism and the National Institute of Mental Health provide grants to communities interested in establishing facilities and programs to deal with alcohol problems at the local level. As an example, the Greater Las Vegas (New Mexico) Council on Alcoholism, applied for and received a grant from the National Institute of Mental Health in 1972 to construct an alcoholism center in Las Vegas to provide transitional services to alcoholics. The Federal grant for the project amounted to $68,000. The completed project was approximately $195,000, demonstrating a notable contribution to the total effort by the community of Las Vegas. The cities of Clovis, Gallup, and Raton, to name a few, have also applied for Federal funds to initiate community programs to deal with alcohol-related problems. Therefore, the Advisory Committee strongly recommends that the city of Farmington seek funds to establish a comprehensive alcoholism program.

Finding #3:

The New Mexico Advisory Committee finds that the present Municipal Court Rehabilitation Program (MCRP) has not been adequately funded or staffed to be a truly effective program in fighting alcohol abuse and alcoholism.

Recommendations:

The New Mexico Advisory Committee strongly recommends that the city of Farmington immediately upgrade and expand the Municipal Court Rehabilitation Program (MCRP). This program offers both individual and group counseling, interviewing, screening, referral and followup health and social services to those persons sentenced to the city jail for alcohol-related crimes. The Advisory Committee feels that this program, if utilized properly, can serve as a major component in an overall community effort to combat alcohol abuse.

The Advisory Committee also recommends that the staffing for the MCRP be increased commensurate with the needs of an expanded program. Furthermore, the Committee strongly feels that it is imperative that the Navajo people be directly involved in this program to the greatest extent possible.

Finding #4:

The Advisory Committee finds that the Farmington Police Department has depended exclusively on protective custody as a means of coping with the problem instead of seeking other alternatives.

Recommendations:

The Advisory Committee recommends that the Farmington Police Department immediately take appropriate steps to seek funding from the Law Enforcement Assistance Administration (LEAA) or utilize current revenue sharing funds provided to the city of Farmington to initiate a full-time referral program and to hire additional staff to operate it. It is the belief of the Advisory Committee that the police department should do more than simply house inebriated people for a certain length of time and then release them only to return into custody once again. This recidivism places a severe burden on the police department and drains available resources. A referral program as envisaged here would draw upon existing community resources to handle the problem and reduce the present high rate of recidivism among protective custody cases.

Finding #5:

While the New Mexico Advisory Committee concurs with the intent of the 1973 Detoxification Act in its treatment of alcoholism as an illness and not a crime, it finds that the State Legislature, in passing the act, failed to provide funds for services or facilities necessary to implement the provisions of the act; nor has it taken into full con-

sideration the ultimate impact of this bill upon the subject of the act itself, the individual citizen.

Recommendations:

The New Mexico Advisory Committee recommends that the Governor seek and the State enact legislation amending and expanding the present Detoxification Act to provide sufficient funds for local health facilities to initiate services to intoxicated persons, where such services do not exist, and provide local communities with additional resources to implement the intent of the act.

The Advisory Committee further recommends that the Governor establish a special committee to review the impact of the Detoxification Act on the alcoholic and recommend changes in the act to take into consideration any adverse effects that may have been overlooked by its proponents.

The present act does not solve the problems inherent in alcohol abuse or alcoholism. Some of the provisions are unrealistic; others pose a potential danger to the intoxicated person. It does not consider the problem of recidivism. The Advisory Committee feels that while this act is an important first step, it does not go far enough.

Health and Medical Services

Finding #1:

The New Mexico Advisory Committee finds that the health care situation for Navajos living in the northwestern part of New Mexico is at a crisis stage. The present Public Health Service/Indian Health Service (PHS/IHS) Hospital located in Shiprock is inadequate to meet the needs of the Navajo people living in its service area. Private medical facilities in the region are very limited. Moreover, there appears to be little cooperation between the medical facilities and staff on the reservation and the private medical community in Farmington. The Advisory Committee also finds that there is no coordinated health planning in the region which involves the PHS/IHS facility in Shiprock and the San Juan Hospital in Farmington.

Recommendations:

The New Mexico Advisory Committee recommends that the U.S. Commission on Civil Rights recommend to the President and the Congress that they increase appropriations to the Indian Health Service to immediately upgrade present facilities at the Shiprock Hospital and increase the size of its staff to meet the needs of the Navajo people living within its service area.

The Advisory Committee further recommends that the Governor of New Mexico, under his authority as chief executive, immediately establish a special, temporary committee comprised of representatives from the Navajo Nation, the PHS/IHS, the Four Corners Regional Commission, the Department of Health and Social Services, State Planning Department, the New Mexico Commission on Indian Affairs, the San Juan Council of Governments, and the San Juan Hospital to develop a comprehensive regional plan for the development of health care facilities for all racial/ethnic groups living in the northwestern part of New Mexico. This committee should be empowered to assess the need for health services in the region, establish priorities, develop the basis for a coordinated health planning process and create a regional health planning council under the overall jurisdiction of the San Juan Council of Governments to carry on the work after the temporary committee has been disolved.

The Advisory committee also recommends that the PHS/IHS Hospital in Shiprock and the San Juan Hospital in Farmington immediately create a committee comprised of both administrators and medical staff from the respective institutions to coordinate the activities of these two facilities, establish closer working relationships, and develop a plan to assure adequate care for Navajos living both on and off the reservation.

Finding #2:

The New Mexico Advisory Committee finds that the problem of securing medical and health services is acute for low-income people and for Navajos living off the reservation. The Advisory Committee also heard testimony alleging that San Juan Hospital has refused services to some Navajos in need of medical attention, and has instead transferred them to the PHS/IHS Hospital in Shiprock for medical care. This situation is aggravated by the complex jurisdictional problems in providing health and medical care to Indians living off the reservation.

Recommendations:

The New Mexico Advisory Committee recommends that the Indian Health Service examine its relationship with other governmental health service systems and programs and private health insurance plans for the purpose of developing additional sources of funds and health care for Indian people to supplement regular Indian Health Service appropriations and services.

The Advisory Committee further recommends that the Office for Civil Rights of the U.S. Department of Health, Education and Welfare (OCR/DHEW) immediately initiate an on-site review of San Juan Hospital to determine whether or not there has been a denial of equal access to Navajos seeking medical attention from the hospital. Witnesses at

the open meeting in Farmington complained that this hospital often referred Navajo applicants to the IHS Hospital in Shiprock rather than admit them.

The Advisory Committee also recommends that the Indian Health Service establish a clear and definite policy regarding the treatment of Indians at private health facilities. State and local government officials have usually viewed the provision of health services to Indians as a Federal responsibility. The provision of such services, however, is not an exclusive responsibility of the Federal government. When an Indian leaves the reservation, responsibility for providing health services is assumed by the State and local communities through public and private vendors, and he or she is entitled to services as any other citizen.

Finding #3:

The Advisory Committee finds that the present Contract Medical Care (CMC) Program is inadequate to meet the health and medical needs of Navajos residing in the Shiprock and Farmington areas. The amount of funds presently allocated to the program annually ($25,000) is insufficient. Moreover, the procedures for receiving authorization and initiating treatment in the Farmington/Shiprock area are both time consuming and cumbersome, especially in emergency situations. Provisions for transporting Navajo patients from one facility to another are also inadequate.

Recommendations:

The New Mexico Advisory Committee recommends that the U.S. Commission on Civil Rights recommend to the President and Congress to increase appropriations specifically to upgrade the Contract Medical Care Program to provide necessary specialized medical care to Indian people who must forego such medical attention because of limited funding.

The Advisory Committee further recommends that staff from both the PHS/IHS Hospital in Shiprock and San Juan Hospital immediately take steps to establish a clear line of responsibility for authorizing and initiating treatment under the CMC. Present procedures must be streamlined to reduce the amount of time necessary to respond to emergency authorizations.

The Advisory Committee strongly recommends that both facilities develop a plan for transporting patients from one hospital to another. The Advisory Committee feels that an adequate transportation plan is essential, given the present needs and severe lack of available transportation facilities.

The Advisory Committee further recommends that both hospitals immediately develop an on-going orientation program to acquaint the respective medical staffs and personnel of the other's needs and problems. The Advisory Committee believes that it is important that each facility begin to understand each other's limitations, and cooperate to maximize their medical resources.

Employment: Private and Public

Finding #1:

In a survey of 21 major private employers in San Juan County, the New Mexico Advisory Committee finds that while Native Americans constitute about 38 percent of the total employment in these companies, nearly 90 percent of these Indian employees are in blue-collar jobs. More than 70 percent of these employees are concentrated in the operative and laborer job categories. These statistics indicate that the majority of those Indians employed in the private sector are concentrated in low-skilled and low-paying jobs. These figures also appear to indicate that Indians have not been able to seek employment or move up to white-collar jobs on the same basis as Anglos.

Recommendations:

The New Mexico Advisory Committee recommends that the Equal Employment Opportunity Commission (EEOC) immediately initiate an investigation of private employers in the city of Farmington, San Juan County, and those employers on the reservation to determine if a pattern or practice of discrimination exists. If such a finding is made, it is recommended that the EEOC take appropriate action to see that those employers discriminating against Navajos, both on and off the reservation, immediately comply with Title VII.

The New Mexico Advisory Committee also recommends that the New Mexico Employment Security Commission facilitate the development and utilization of Indian human resources in the region. This can be done by:

(a) Assisting local communities in the region, both on and off the reservation, to assess their employment needs;

(b) Assisting local employers in job restructuring to facilitate the employment of Native Americans;

(c) Encouraging the coordination of all State and Federal agencies and organizations in the region concerned with economic development; and

(d) Developing the employability of Native Americans presently unable to compete in the labor market through greater emphasis on vocational training and human resource development programs in the region.

The New Mexico Advisory Committee further recommends that the city of Farmington immediately establish an employment development department within its official structure and provide it with the resources necessary to conduct a comprehensive assessment of present and future employment needs, and develop special vocational training and human resource development programs to meet the needs of minority and low-income people. This department should also be in a position to conduct intensive planning and aggressively seek resources necessary to provide the services and solutions to meet community needs.

Finally, the Advisory Committee recommends that all private employers in the region immediately evaluate their present training and promotion practices and employment data on job levels of Indian employees to assess existing barriers to equal employment opportunity at all levels. Each employer should prepare and implement a program to eliminate discriminatory barriers to job advancement and to undo existing patterns of underutilization of Indian employees brought about by past discrimination.

Finding #2:

The New Mexico Advisory Committee finds that while Navajos comprise more than 60 percent of the combined work force of Arizona Public Service Company (Four Corners Power Plant), El Paso Natural Gas Company (San Juan Division), Fairchild Semi-Conductor (Shiprock facility), and Utah International (Navajo Mine), they constitute nearly 80 percent of all the blue-collar workers in these companies. More than half are concentrated in the operative and laborer job categories. Each of these companies is located, at least in part, on the Navajo Reservation, and has contracted with the Navajo Tribe to utilize and develop the natural resources of the reservation.

Recommendations:

The New Mexico Advisory Committee strongly recommends that each of the above employers:

(a) Evaluate their present promotion practices and employment data on job levels of Indian employees to assess existing barriers to the upward mobility of Navajo employees;

(b) Prepare and implement an affirmative action program that establishes specific standards and criteria to eliminate all barriers to equal employment opportunity and rectify any existing patterns of underutilization of Navajo employees;

(c) Whenever possible, make initial placement of Navajo employees in categories with low Indian representation; and

(d) Facilitate transfers, increase job training opportunities, broaden job experience, and take whatever additional steps are necessary to facilitate the promotion of Navajo employees.

To implement the above, the New Mexico Advisory Committee strongly recommends that each of the above employers immediately develop an affirmative action program embodying the principle of Navajo preference. This program should establish specific, measurable, attainable hiring and promotion goals, with target dates in each area of underutilization. Furthermore, specific programs should be established to attain affirmative action goals, including recruitment, training, counseling, upward mobility, review and revision of job description, hiring criteria, and employment procedures.

The Advisory Committee further recommends that each of the above employers undertake a comprehensive evaluation of its testing policies, practices, and procedures to insure against all forms of cultural, racial, and language bias. This assessment process must include structured participation by Navajos. Direct involvement by Navajo representatives is essential to the process of identifying and eliminating discriminatory elements in all aspects of testing, including test instruments, test administration, and utilization of test results.

The Advisory Committee also recommends that all company directors, managers, and supervisors be required to successfully complete an intensive Indian cultural awareness training seminar to be directed and staffed by Navajo personnel on the reservation. This orientation program should be mandatory for all non-Indian employees in these companies. The seminar would be designed to familiarize and sensitize non-Indians to the culture, language, history, and customs of the Navajo people.

Finding #3:

The New Mexico Advisory Committee finds that less than 4 percent of the total work force employed by the city of Farmington and San Juan County, respectively, are Navajos, despite the fact that Native Americans

comprise nearly 9 percent of the total population in non-reservation areas of the county and approximately 35 percent of the population in San Juan County. These figures indicate a severe underutilization of Native Americans in local government employment.

Recommendations:

The New Mexico Advisory Committee recommends that the governments of San Juan County and the city of Farmington undertake the following steps to provide equal employment opportunity in public employment and to undo the effects of past discrimination.

(a) The San Juan County Commission and the Mayor of the city of Farmington should use their powers of appointment to select Native Americans and other minority residents of the county and the city to serve on various boards and commissions.

(b) The county and city governments should immediately establish channels for the flow of information to potential minority applicants about available job opportunities and selection procedures.

(c) Both the county and city governments must undertake a positive effort to attract such applicants. This will require the need to establish on-going communication with various individuals and organizations.

(d) In the process of integrating their work forces, the county and city governments should take full advantage of all available outside training programs and establish on-the-job training and/or work-study programs for otherwise qualified minority applicants.

(e) Both the city and the county immediately implement an affirmative action program stating specific, measurable, attainable hiring and promotion goals, with target dates, in each area of underutilization.

(f) Each of the above governments should undertake an immediate evaluation of their testing policies, practices and procedures to insure against all forms of cultural, racial and language bias. This assessment process must include structural participation by Navajos and other minorities.

The New Mexico Advisory Committee further recommends that the Equal Employment Opportunity Commission (EEOC) immediately undertake an investigation of the employment practices of the city of Farmington and San Juan County to determine whether there is a pattern or practice of employment discrimination and take appropriate action to eliminate such discrimination.

Economic Development

Finding #1:

The New Mexico Advisory Committee finds that the economic reciprocity which binds Navajo to Farmington and establishes, in large part, the relationships between these two groups in almost every phase of life, is basically unequal. The relationship is one of dominance and very little cooperation on the part of the predominantly Anglo community of Farmington towards Navajos instead of mutual understanding.

Recommendations:

The New Mexico Advisory Committee strongly recommends that the mayor and the city council, as well as business, civic, and professional leaders of Farmington, and officials of the Navajo Nation immediately initiate formal discussions to deal with the whole issue of economic relationships and the potential impact of the proposed economic development on the reservation and the city of Farmington. The Advisory Committee feels that such discussions are imperative since the economic growth and well-being of San Juan County is largely dependent on the development of natural resources on the Navajo Reservation. Moreover, Navajo trade as well as Navajo resources are essential to Farmington's present and future prosperity. Farmington, on the other hand, is a dominant commercial and trading center for the Navajo people. Consequently, the Advisory Committee believes there is a commonality of interests involved here that must be clarified and, wherever possible, strengthened.

The New Mexico Advisory Committee further recommends that the San Juan Council of Governments and the Chamber of Commerce of Farmington immediately establish a joint committee consisting of, but not limited to, local officials from Farmington and San Juan County, knowledgeable citizens representing all segments of the business and banking community in Farmington, representatives of the New Mexico State Planning Office, San Juan Basin Development Corporation, and officials of the Navajo Nation to coordinate all future economic development in the region. This committee would also initiate a comprehensive regional economic development plan to maximize available resources and capital in the region.

Finally, the Advisory Committee recommends that the city of Farmington immediately establish a consumer protection department within its municipal structure. Among the purposes of this department would be the protection of consumers, both Indian and non-Indian, against unfair business practices in the city of Farmington. To carry out its work in an effective manner, this department must be provided with adequate resources and personnel.

Finding #2:

The New Mexico Advisory Committee finds that, to a large extent, the Navajo Nation is not prepared to develop their human resources on a scale commensurate with the expected development of the coal gasification complexes and the Navajo Irrigation Project. Maximizing the Navajo share of the total employment depends, in part, on the establishment of meaningful education and vocational training programs for Navajos integrated with comprehensive manpower planning. To date, little has been accomplished to fulfill these tasks.

Recommendations:

The New Mexico Advisory Committee recommends to the U.S. Commission on Civil Rights that it recommend to the President and the Congress that additional legislation be enacted to substantially increase the funding available to the Navajo Nation under the Comprehensive Employment Training Act (CETA) in order to establish manpower training programs to meet the present and long-range employment needs of the Navajo people.

The New Mexico Advisory Committee further recommends that the Bureau of Indian Affairs (Navajo Area Office) and the Navajo Nation make a concerted effort to maximize the participation of Navajo people in the planning, development, construction, and operation of the proposed coal gasification complexes and other industrial development activities on the reservation. Each of the companies involved in the construction and operation of the proposed coal gasification complexes should immediately coordinate their efforts with the Navajo Nation to establish employment need projections for at least a 10-year period. These projections, in turn, should be used as a basis for training and upgrading Navajo personnel for employment in these industrial complexes.

Finally, the New Mexico Advisory Committee strongly recommends that each of the private employers or a consortium of employers undertaking industrial development projects on the Navajo Reservation immediately establish, as part of their obligations under the Navajo Preference Clause, comprehensive manpower training programs for all potential

Navajo employees. Every effort must be made by these companies to place Navajo personnel in responsible management and administrative positions in these reservation industrial complexes.

To a large extent, the Navajos are hampered by lack of capital for developing the rich natural resources of their land; hence, the necessity for outside developers. But the primary interests of these developers, the Advisory Committee believes, lies in projects alone and they are not generally concerned with development to significantly improve the standard of living on the reservation except as a by-product of "progress." Consequently, the Navajo Tribe should make every effort to combine these industrial development efforts with an overall comprehensive regional plan to integrate social, economic, and environmental planning to maximize the benefits that many accrue to the Navajo people living in this area.

While the Navajo Tribe has developed and is implementing a 10-year economic development plan, much of their destiny is still dependent on outside developers. The Advisory Committee feels that until the Federal Government becomes more concerned with the plight of the Navajo people, caused in no small part by past Federal action and inaction, the full development of Navajo human and natural resources on terms defined by Navajos themselves, will remain a very distant goal.

Finding #3:

The New Mexico Advisory Committee finds that the full impact of the proposed gasification plants and related industrial development projects on the Navajo way of life and his land have not been fully assessed by the large energy production companies intent on developing Navajo resources. The Advisory Committee also finds that the Navajo population in the reservation areas immediately surrounding the construction and mining sites will be most affected by changes produced in the local employment structure, environmental pollution, and disruption of existing patterns of social organization.

Recommendations:

The New Mexico Advisory Committee recommends that the Bureau of Indian Affairs (Navajo Area Office), the Bureau of Reclamation, and the Navajo Nation, strongly consider the social impact of the proposed industrial and economic development of the eastern part of the reservation, especially in the Burnham area. Although a draft environmental impact statement has been prepared by WESCO on its coal gasification plant in northwestern New Mexico, no

comparable social impact statement has been done. Little or no attention has been placed on the potential disruption of the Navajo way of life by the proposed plants. While the Advisory Committee is certainly in favor of raising the standard of living of the Navajo people, it feels that careful thought must be given to the ramifications of this and similar projects in the area. The Advisory Committee believes that industrial development on the reservation can proceed while minimizing its impact on the Navajo culture.

The Advisory Committee also heard testimony relating to the possible harmful emissions coming from these plants. In this context, the Advisory Committee strongly recommends that an independent research organization carefully review the environmental impact statements prepared by WESCO and other firms intending to develop Navajo natural resources. This review should not only take into consideration the possible short-run environmental impact, but also the potential long-range environmental, economic, and social impacts. The Advisory Committee feels that it is imperative that every effort be made to maximize the participation of the Navajo people in this process.

APPENDIX A

The Administration of Justice in San Juan County and the City of Farmington: Its Impact on the Navajo

A Summary

Purpose of Study

The purpose of this study was to determine whether Navajos in the city of Farmington and San Juan County suffer from unequal protection and enforcement of the laws.

Study Design

The first phase in designing this study was to carefully outline the purpose and objectives of the undertaking. Accordingly, a proposal was prepared which called for research to be carried out in three stages:

(1) One month was to be devoted to an exploratory study consisting of interviews with public officials at the municipal and county levels, law enforcement officials, attorneys, and judges at the municipal and district level.

(2) Concurrent with the above, additional interviews were conducted with private citizens, both Indian and non-Indian, to determine the extent and nature of the problem.

(3) The third stage was to devote one month to a systematic study of police and court records.

The second phase of the study involved the implementation of each of the above stages over a 3-month period - June 1, 1974, to August 15, 1974. This phase culminated in a 3-day open meeting of the New Mexico State Advisory Committee in Farmington in late August. In preparation for that open meeting an interim draft report was prepared by Commission staff and submitted to the record.

The third and final phases involve the summation and analysis of the data gathered during the research phase.

Methods of Data Collection

Two major approaches were used to gather the necessary data:

(1) First, extensive interviews were conducted over a 2-month period with public officials, law enforcement personnel, attorneys, and private citizens.

(2) The second approach involved a careful review of police records covering a 1-year period from June 1, 1973, to June 31, 1974. It was determined early in the data-gathering stage that this period of time offered the most pertinent and current data for the study. Additional data were gathered from court records of the Municipal Court in Farmington, and the District Court in Aztec, New Mexico.

Data was then compiled on arrest records, protective custody cases, recidivism rates and the distribution of sentences and fines. These data were then compared, compiled on the basis of race, sex and age, and analyzed.

The results of the data collection efforts are summarized in the following sections.

The Setting

Generally speaking, San Juan County contains two very different economies, life styles and cultures. Geographically, these differences are very distinct. The northeastern part of the county, for example, contains the Anglo dominated communities of Farmington, Aztec and Bloomfield. The western half of the county is occupied largely by the Navajo Reservation.

In terms of population, San Juan County ranks fourth among New Mexico counties with a population of 52,515, and second in relation to its Indian population. Over half of the county's population is Anglo. Native Americans constitute about 35 percent of the population. Spanish Americans comprise approximately 13 percent, and blacks less than one percent of the population.

More than half of the population in the county reside in rural areas with the rest living in small urban centers. Approximately 68 percent of the population resides in non-reservation areas of the county. According to the 1970 census, Anglos constitute over 70 percent, Spanish Americans 19 percent, Native Americans about 9 percent and blacks less than one percent of the non-reservation population. On the other hand, over 80 percent of the Indian population in the county is concentrated on the Navajo Reservation. The rest are located in Farmington, on the Ute Mountain Reservation, and in scattered rural areas throughout the county.

Farmington is by far the largest city in the county and in the surrounding region with a population of about 22,000. Anglos make up nearly 78 percent of the city's population. Another 14 percent consists of Spanish Americans, and blacks comprise slightly over one percent of the city's population. Native Americans make up about 7 percent of the total population in Farmington.

The Farmington Police Department with a staff of 74 is responsible for enforcing all the laws and municipal ordinances within the incorporated city limits of Farmington. The Sheriff's Department, on the other hand, with a staff of 24, is responsible for enforcing the laws in all non-incorporated areas of the county in the non-reservation areas.

There are two major courts in the county. These are the municipal court in Farmington which handles all misdemeanor cases and the

Eleventh Judicial District Court located at Aztec, the county seat. When a felony is involved, the case is automatically sent to the district court.

The municipal court in Farmington has concurrent jurisdiction with the magistrate court for all misdemeanor cases other than high misdemeanors. Residents of Farmington who are involved in a judicial proceeding will, in all probability, appear in municipal court. Its jurisdiction ranges up to a fine of $300 and/or 90 days in jail.

Findings

Fines and Sentences Assessed by the Municipal Court -
In response to allegations that Navajos were routinely assessed higher fines and longer sentences than Anglos for similar offenses, a study of the fines and sentences assessed by the Municipal Court in Farmington was undertaken for the period of July 1973 to June 1974. The 10 categories which had the greatest number of cases were chosen for review. These include: drinking in public, illegal possession of alcohol, disturbing the peace, driving while intoxicated (DWI), other traffic violations, disorderly conduct, public affray, loitering, assault and battery, and shoplifting.

Records indicate that Indians had the greatest number of cases pending final disposition by the Municipal judge or the district attorney. As of June 1974, there was a total of 365 cases designated as pending. Of this total, 236 cases or about 65 percent involved Native Americans.

Of the 627 persons assessed a monetary fine, 494 or nearly 80 percent were Native Americans. Overall, the number of Indians fined is significantly higher than for any other racial/ethnic group in Farmington. This is true in all 10 categories studied with the exception of traffic violations other than DWI. For other traffic violations there was an equal number of fines for Anglos and Indians. Without exception, in each of the 10 categories studied, the highest fine was always assessed to Indians; or, if Anglos were fined the same amount, the number of Anglos arrested for a particular offense were far less. For example, only 4 Anglos were fined over $200 for DWI; whereas, 20 Indians were charged at least $200 for this offense. (See Table 1)

It is also significant to note that the category with the greatest number of Indians was drinking in public, while not one Anglo was fined for this offense.

Table 2 describes the distribution of days sentenced by race and offense category. Of the 154 persons receiving a sentence of days to be served, a total of 148 or 95 percent were Native Americans.

TABLE 1

DISTRIBUTION OF FINES BY RACE AND CATEGORY

CATEGORY: Drinking in public

RACE	CASES PENDING	FINES $15-24	$25-49	$50-99	$100-149	$150-199	$200+	TOTAL
INDIAN	29	71	18	0	0	0	0	89
WHITE	3	0	0	0	0	0	0	0
SP AMER	0	2	0	0	0	0	0	2
BLACK	0	1	0	0	0	0	0	1
TOTAL	32	74	18	0	0	0	0	92

CATEGORY: Other Traffic Violations (2)

RACE	CASES PENDING	FINES $15-24	$25-49	$50-99	$100-149	$150-199	$200+	TOTAL
INDIAN	4	1	4	3	1	0	1	10
WHITE	15	1	6	1	2	0	0	10
SP AMER	3	0	1	1	0	0	0	2
BLACK	0	0	0	0	0	0	0	0
TOTAL	22	2	11	5	3	0	1	22

CATEGORY: Loitering (3)

RACE	CASES PENDING	FINES $15-24	$25-49	$50-99	$100-149	$150-199	$20
INDIAN	18	25	10	3	0	0	0
WHITE	5	4	3	2	0	0	0
SP AMER	0	0	0	0	0	0	0
BLACK	0	0	0	0	0	0	0
TOTAL	23	29	13	5	0	0	0

CATEGORY: Illegal Possession of Alcohol (1)

RACE	CASES PENDING	FINES $15-24	$25-49	$50-99	$100-149	$150-199	$200+	TOTAL
INDIAN	13	15	8	3	0	0	0	26
WHITE	8	14	10	0	0	0	0	24
SP AMER	3	12	5	1	0	0	0	18
BLACK	2	0	1	0	0	0	0	1
TOTAL	26	41	24	4	0	0	0	69

CATEGORY: Disorderly Conduct

RACE	CASES PENDING	FINES $15-24	$25-49	$50-99	$100-149	$150-199	$200+	TOTAL
INDIAN	35	56	19	4	1	0	0	80
WHITE	4	7	2	0	0	0	0	9
SP AMER	2	1	0	1	0	0	0	2
BLACK	3	1	0	0	0	0	0	1
TOTAL	44	65	21	5	1	0	0	92

CATEGORY: Assault and Battery

RACE	CASES PENDING	FINES $15-24	$25-49	$50-99	$100-149	$150-199	$20
INDIAN	14	2	1	11	2	0	0
WHITE	7	0	1	0	0	0	0
SP AMER	3	0	0	0	0	0	0
BLACK	0	0	0	0	0	0	0
TOTAL	24	2	2	11	2	0	0

CATEGORY: Disturbing the Peace

RACE	CASES PENDING	FINES $15-24	$25-49	$50-99	$100-149	$150-199	$200+	TOTAL
INDIAN	15	18	2	2	0	0	0	22
WHITE	4	3	1	0	0	0	0	4
SP AMER	0	0	0	0	0	0	0	0
BLACK	2	0	0	0	0	0	0	0
TOTAL	21	21	3	2	0	0	0	26

CATEGORY: Public Affray

RACE	CASES PENDING	FINES $15-24	$25-49	$50-99	$100-149	$150-199	$200+	TOTAL
INDIAN	29	49	18	8	0	0	0	75
WHITE	5	11	0	2	0	0	0	13
SP AMER	0	2	0	0	0	0	0	2
BLACK	1	1	0	0	0	0	0	1
TOTAL	35	63	18	10	0	0	0	91

CATEGORY: Shoplifting

RACE	CASES PENDING	FINES $15-24	$25-49	$50-99	$100-149	$150-199	$20
INDIAN	12	0	5	45	4	0	0
WHITE	6	0	0	6	0	0	0
SP AMER	3	0	2	3	0	0	0
BLACK	1	0	1	0	0	0	0
TOTAL	22	0	8	54	4	0	0

CATEGORY: Driving While Intoxicated

RACE	CASES PENDING	FINES $15-24	$25-49	$50-99	$100-149	$150-199	$200+	TOTAL
INDIAN	67	1	0	0	4	44	20	69
WHITE	35	0	0	0	3	5	4	12
SP AMER	8	0	0	0	1	1	0	2
BLACK	6	0	0	0	0	0	1	1
TOTAL	116	1	0	0	8	50	25	84

SOURCE: Farmington Police Department. Police Ledger 7/73 - 6/74, Farmington, New Mexico

(1) In the $10 - $14 fine range there were two fines assessed—one Indian and one White.
(2) Reckless and careless driving offenses have been included.
In the $10 - $14 fine range there were five fines assessed—three White and two Black.
(3) Minor loitering has been included
In the $10 - $14 fine range there were four fines assessed—four Indian.

TABLE 1

DISTRIBUTION OF FINES BY RACE AND CATEGORY

: Drinking in Public

CASES PENDING	FINES $15- 24	$25- 49	$50- 99	$100- 149	$150- 199	$200+	TOTAL
29	71	18	0	0	0	0	89
3	0	0	0	0	0	0	0
0	2	0	0	0	0	0	2
0	1	0	0	0	0	0	1
32	74	18	0	0	0	0	92

: Illegal Possession of Alcohol (1)

CASES PENDING	FINES $15- 24	$25- 49	$50- 99	$100- 149	$150- 199	$200+	TOTAL
13	15	8	3	0	0	0	26
8	14	10	0	0	0	0	24
3	12	5	1	0	0	0	18
2	0	1	0	0	0	0	1
26	41	24	4	0	0	0	69

: Disturbing the Peace

CASES PENDING	FINES $15- 24	$25- 49	$50- 99	$100- 149	$150- 199	$200+	TOTAL
15	16	2	2	0	0	0	22
4	3	1	0	0	0	0	4
0	0	0	0	0	0	0	0
2	0	0	0	0	0	0	0
21	21	3	2	0	0	0	26

: Driving While Intoxicated

CASES PENDING	FINES $15- 24	$25- 49	$50- 99	$100- 149	$150- 199	$200+	TOTAL
67	1	0	0	4	44	20	69
33	0	0	0	3	5	4	12
8	0	0	0	1	1	0	2
6	0	0	0	0	0	1	1
116	1	0	0	8	50	25	84

CATEGORY: Other Traffic Violations (2)

RACE	CASES PENDING	FINES $15- 24	$25- 49	$50- 99	$100- 149	$150- 199	$200+	TOTAL
INDIAN	4	1	4	3	1	0	1	10
WHITE	15	1	6	1	2	0	0	10
SP AMER	3	0	1	1	0	0	0	2
BLACK	0	0	0	0	0	0	0	0
TOTAL	22	2	11	5	3	0	1	22

CATEGORY: Disorderly Conduct

RACE	CASES PENDING	FINES $15- 24	$25- 49	$50- 99	$100- 149	$150- 199	$200+	TOTAL
INDIAN	35	56	19	4	1	0	0	80
WHITE	4	7	2	0	0	0	0	9
SP AMER	2	1	0	1	0	0	0	2
BLACK	3	1	0	0	0	0	0	1
TOTAL	44	65	21	5	1	0	0	92

CATEGORY: Public Affray

RACE	CASES PENDING	FINES $15- 24	$25- 49	$50- 99	$100- 149	$150- 199	$200+	TOTAL
INDIAN	29	49	18	8	0	0	0	75
WHITE	5	11	0	2	0	0	0	13
SP AMER	0	2	0	0	0	0	0	2
BLACK	1	1	0	0	0	0	0	1
TOTAL	35	63	18	10	0	0	0	91

CATEGORY: Loitering (3)

RACE	CASES PENDING	FINES $15- 24	$25- 49	$50- 99	$100- 149	$150- 199	$200+	TOTAL
INDIAN	18	35	10	3	0	0	0	48
WHITE	5	4	3	2	0	0	0	9
SP AMER	0	0	0	0	0	0	0	0
BLACK	0	0	0	0	0	0	0	0
TOTAL	23	39	13	5	0	0	0	57

CATEGORY: Assault and Battery

RACE	CASES PENDING	FINES $15- 24	$25- 49	$50- 99	$100- 149	$150- 199	$200+	TOTAL
INDIAN	14	2	1	11	2	0	0	16
WHITE	7	0	1	0	0	0	0	1
SP AMER	3	0	0	0	0	0	0	0
BLACK	0	0	0	0	0	0	0	0
TOTAL	24	2	2	11	2	0	0	17

CATEGORY: Shoplifting

RACE	CASES PENDING	FINES $15- 24	$25- 49	$50- 99	$100- 149	$150- 199	$200+	TOTAL
INDIAN	12	0	5	45	4	0	0	54
WHITE	6	0	0	6	0	0	0	6
SP AMER	3	0	2	3	0	0	0	5
BLACK	1	0	1	0	0	0	0	1
TOTAL	22	0	8	54	4	0	0	66

SOURCE: Farmington Police Department. Police Ledger 7/73 - 6/74, Farmington, New Mexico

(1) In the $10 - $14 fine range there were two fines assessed—one Indian and one White.
(2) Reckless and careless driving offenses have been included.
In the $10 - $14 fine range there were five fines assessed—three White and two Black.
(3) Minor loitering has been included
In the $10 - $14 fine range there were four fines assessed—four Indian.

TABLE 2

DAYS SENTENCES BY RACE AND CATEGORY

CATEGORY: Drinking in Public

RACE	DAYS 1-4	5-9	10-14	15-29	30+	DIS-MISSED CASES	SUSP. SENT.
INDIAN	3	32	1	0	0	2	7
WHITE	0	0	0	0	0	1	0
SP AMER	0	0	0	0	0	0	0
BLACK	0	0	0	0	0	0	0
TOTAL	3	32	1	0	0	3	7

CATEGORY: Disorderly Conduct

RACE	DAYS 1-4	5-9	10-14	15-29	30+	DIS-MISSED CASES	SUSP. SENT.
INDIAN	1	11	2	1	1	1	1
WHITE	0	0	0	0	0	0	1
SP AMER	0	1	0	0	0	0	0
BLACK	0	0	0	0	0	0	0
TOTAL	1	12	2	1	1	1	2

CATEGORY: Loitering

RACE	DAYS 1-4	5-9	10-14	15-29	30+	DIS-MISSED CASES	SUSP. SENT.
INDIAN	1	13	1	0	0	8	9
WHITE	0	0	0	0	0	0	0
SP AMER	0	0	0	0	0	0	0
BLACK	0	0	0	0	0	0	0
TOTAL	1	13	1	0	0	8	9

CATEGORY: Illegal Possession of Alcohol

RACE	DAYS 1-4	5-9	10-14	15-29	30+	DIS-MISSED CASES	SUSP. SENT.
INDIAN	0	3	1	1	0	2	3
WHITE	0	0	0	0	0	0	1
SP AMER	0	0	0	0	0	0	0
BLACK	0	0	0	0	0	0	0
TOTAL	0	3	1	1	0	2	4

CATEGORY: Other Traffic Violations

RACE	DAYS 1-4	5-9	10-14	15-29	30+	DIS-MISSED CASES	SUSP. SENT.
INDIAN	0	2	0	1	3	1	0
WHITE	0	0	0	2	0	0	0
SP AMER	0	0	0	0	0	0	0
BLACK	0	0	0	1	0	0	0
TOTAL	0	2	0	4	3	1	0

CATEGORY: Assault and Battery

RACE	DAYS 1-4	5-9	10-14	15-29	30+	DIS-MISSED CASES	SUSP. SENT.
INDIAN	0	0	4	6	0	1	2
WHITE	0	0	0	0	0	2	0
SP AMER	0	0	0	0	0	1	0
BLACK	0	0	0	0	0	0	0
TOTAL	0	0	4	6	0	3	2

CATEGORY: Disturbing the Peace

RACE	DAYS 1-4	5-9	10-14	15-29	30+	DIS-MISSED CASES	SUSP. SENT.
INDIAN	0	1	0	0	0	0	0
WHITE	0	1	0	0	0	0	1
SP AMER	0	0	0	0	0	0	0
BLACK	0	0	0	0	0	0	0
TOTAL	0	2	0	0	0	0	1

CATEGORY: Public Affray

RACE	DAYS 1-4	5-9	10-14	15-29	30+	DIS-MISSED CASES	SUSP. SENT.
INDIAN	0	23	1	0	1	5	2
WHITE	0	0	0	0	0	0	0
SP AMER	0	0	0	0	0	0	0
BLACK	0	0	0	0	0	0	0
TOTAL	0	23	1	0	1	5	2

CATEGORY: Shoplifting

RACE	DAYS 1-4	5-9	10-14	15-29	30+	DIS-MISSED CASES	SUSP. SENT.
INDIAN	2	1	6	5	4	2	1
WHITE	0	0	0	0	0	0	1
SP AMER	0	0	0	0	0	0	0
BLACK	0	0	0	0	0	0	0
TOTAL	2	1	6	5	4	2	2

CATEGORY: Driving While Intoxicated

RACE	DAYS 1-4	5-9	10-14	15-29	30+	DIS-MISSED CASES	SUSP. SENT.
INDIAN	0	0	0	4	12	2	0
WHITE	0	0	0	0	1	1	0
SP AMER	0	0	0	0	0	0	0
BLACK	0	0	0	0	0	0	0
TOTAL	0	0	0	4	13	3	0

SOURCE: Farmington Police Department. Police Ledger 7/73 - 6/74, Farmington, New Mexico

TABLE 2

DAYS SENTENCES BY RACE AND CATEGORY

GORY: Drinking in Public

	DAYS 1-4	5-9	10-14	15-29	30+	DIS-MISSED CASES	SUSP. SENT.
AN	3	32	1	0	0	2	7
	0	0	0	0	0	1	0
ER	0	0	0	0	0	0	0
	0	0	0	0	0	0	0
L	3	32	1	0	0	3	7

GORY: Illegal Possession of Alcohol

	DAYS 1-4	5-9	10-14	15-29	30+	DIS-MISSED CASES	SUSP. SENT.
AN	0	3	1	1	0	2	3
	0	0	0	0	0	0	1
ER	0	0	0	0	0	0	0
	0	0	0	0	0	0	0
L	0	3	1	1	0	2	4

GORY: Disturbing the Peace

	DAYS 1-4	5-9	10-14	15-29	30+	DIS-MISSED CASES	SUSP. SENT.
AN	0	1	0	0	0	0	0
	0	1	0	0	0	0	1
ER	0	0	0	0	0	0	0
	0	0	0	0	0	0	0
L	0	2	0	0	0	0	1

GORY: Driving While Intoxicated

	DAYS 1-4	5-9	10-14	15-29	30+	DIS-MISSED CASES	SUSP. SENT.
AN	0	0	0	4	12	2	0
	0	0	0	0	1	1	0
ER	0	0	0	0	0	0	0
	0	0	0	0	0	0	0
L	0	0	0	4	13	3	0

CATEGORY: Disorderly Conduct

RACE	DAYS 1-4	5-9	10-14	15-29	30+	DIS-MISSED CASES	SUSP. SENT.
INDIAN	1	11	2	1	1	1	1
WHITE	0	0	0	0	0	0	1
SP AMER	0	1	0	0	0	0	0
BLACK	0	0	0	0	0	0	0
TOTAL	1	12	2	1	1	1	2

CATEGORY: Other Traffic Violations

RACE	DAYS 1-4	5-9	10-14	15-29	30+	DIS-MISSED CASES	SUSP. SENT.
INDIAN	0	2	0	1	3	1	0
WHITE	0	0	0	2	0	0	0
SP AMER	0	0	0	0	0	0	0
BLACK	0	0	0	1	0	0	0
TOTAL	0	2	0	4	3	1	0

CATEGORY: Public Affray

RACE	DAYS 1-4	5-9	10-14	15-29	30+	DIS-MISSED CASES	SUSP. SENT.
INDIAN	0	23	1	0	1	5	2
WHITE	0	0	0	0	0	0	0
SP AMER	0	0	0	0	0	0	0
BLACK	0	0	0	0	0	0	0
TOTAL	0	23	1	0	1	5	2

CATEGORY: Loitering

RACE	DAYS 1-4	5-9	10-14	15-29	30+	DIS-MISSED CASES	SUSP. SENT.
INDIAN	1	13	1	0	0	8	9
WHITE	0	0	0	0	0	0	0
SP AMER	0	0	0	0	0	0	0
BLACK	0	0	0	0	0	0	0
TOTAL	1	13	1	0	0	8	9

CATEGORY: Assault and Battery

RACE	DAYS 1-4	5-9	10-14	15-29	30+	DIS-MISSED CASES	SUSP. SENT.
INDIAN	0	0	4	6	0	1	2
WHITE	0	0	0	0	0	2	0
SP AMER	0	0	0	0	0	1	0
BLACK	0	0	0	0	0	0	0
TOTAL	0	0	4	6	0	3	2

CATEGORY: Shoplifting

RACE	DAYS 1-4	5-9	10-14	15-29	30+	DIS-MISSED CASES	SUSP. SENT.
INDIAN	2	1	6	5	4	2	1
WHITE	0	0	0	0	0	0	1
SP AMER	0	0	0	0	0	0	0
BLACK	0	0	0	0	0	0	0
TOTAL	2	1	6	5	4	2	2

SOURCE: Farmington Police Department. Police Ledger 7/73 - 6/74, Farmington, New Mexico

No Anglos were assessed days to serve for 7 of the 10 categories. One Anglo was sentenced for disturbing the peace, one for DWI, and two for other traffic violations.

From this preliminary investigation, it appears that for the period studied - July 1973 to June 1974 - Native Americans were fined more often, they often had higher fines assessed to them, and they were more likely to be allotted days to serve in jail than Anglos. These disparities are mainly due to the overwhelming number of Native Americans arrested in Farmington in contrast to the relatively small number of Spanish Americans, blacks, or Anglos.

Arrest Patterns -
A study of the official arrest records of the Farmington Police Department was undertaken to determine whether any pattern as to race or types of offenses could be demonstrated. The information necessary for this study was obtained from annual reports of the Farmington Police Department for each of the 5 years studied, 1969 - 1973.

Analysis of the figures for the 5 years shows that the percentage of Native Americans arrested was substantially higher than for any other population group. These range from a low of 79 percent of all arrests in 1969 to a high of 84 percent in 1970.

Table 3 on the following page shows the distribution of arrests over a 5-year period by offense and race.

Most arrests appear to be concentrated in three major areas: alcohol-related offenses, larceny, and assault. The overwhelming majority of arrests of Native Americans appears to be for alcohol-related offenses including: drunk and disorderly, driving while intoxicated and other liquor law violations. Of all the Native Americans taken into custody in 1969 and 1970, at least 90 percent were charged with alcohol-related offenses and the lowest percentage for the 5-year period was 85 percent in 1973.

Next in frequency was larceny. Native Americans comprised a significant number of those arrested for this offense. These ranged from a low of 57 percent of all those arrested in this offense category in 1972 to a high of 66 percent in 1969.

Also common were arrests of Native Americans for "other assaults." This category includes all simple assaults and excludes aggravated assaults. Native Americans arrested for assault ranged from a low of 42 percent of all arrests in this category in 1969 to a high of 50 percent in 1971 and 1973.

TABLE 3
ARRESTS BY FARMINGTON CITY POLICE
FOR A FIVE-YEAR PERIOD

OFFENSE	1969				1970				1971				1972				1973			
	SP	WHT	BLK	IND	SP	WHT	BLK	IND	SP	WHT	BLK	IND	SP	WHT	BLK	IND	SP	WHT	BLK	IND
Murder & Manslaughter	0	1	1	4	0	0	0	3	0	2	0	2	0	2	2	3	0	4	1	7
Manslaughter by Negligence	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Forcible Rape	0	4	0	3	0	5	0	2	1	0	0	3	0	0	0	2	0	0	0	6
Robbery	0	2	0	2	2	0	2	3	0	0	0	3	1	2	4	7	2	23	3	10
Aggravated Assault	6	5	6	13	7	6	2	9	6	11	0	8	5	5	8	18	1	25	2	55
Breaking & Entering	17	8	0	19	2	13	0	16	0	26	2	12	3	35	6	29	9	22	0	24
Larceny Except Auto	1	28	5	65	2	33	5	68	7	41	3	70	3	62	5	93	6	75	4	133
Auto Theft	0	5	1	13	0	12	0	6	0	5	0	5	0	10	0	33	0	8	2	26
Other Assaults	9	54	3	48	4	47	5	50	4	49	6	58	2	50	8	54	5	22	4	31
Forgery and Counterfeiting	0	6	0	1	0	3	1	0	0	1	1	0	1	4	0	2	0	4	0	2
Fraud	2	48	1	9	0	33	0	7	1	31	1	11	2	24	1	8	6	28	2	10
Embezzlement	3	0	0	0	1	3	0	1	1	0	0	0	0	0	0	0	0	3	0	0
Stolen Property	6	0	0	2	5	0	0	7	1	10	0	4	2	4	0	2	4	16	1	6
Carrying Weapons	1	11	0	6	1	7	5	4	0	3	2	3	0	7	2	4	2	9	0	8
Prostitution and Vice	0	7	2	0	0	9	6	0	0	3	12	0	4	19	18	0	2	3	1	2
Sex Offenses Except Rape	0	20	3	5	0	4	0	7	1	5	1	7	0	7	0	9	0	7	0	19
Narcotic Drug Laws	5	25	0	0	0	19	0	2	5	22	1	3	8	33	5	11	14	50	2	15
Gambling	0	0	4	0	0	0	0	0	0	1	4	0	0	0	4	0	0	0	1	0
Family Offenses	0	4	0	8	0	0	0	8	0	2	0	5	0	1	0	9	0	1	0	11
Driving While Intoxicated	26	96	0	201	19	77	0	234	25	149	0	259	31	113	3	225	28	81	6	258
Liquor Laws	12	85	0	88	7	23	3	51	8	66	2	39	7	29	15	66	18	60	5	154
Drunkenness & Disorderly Conduct	54	156	7	3024	48	145	8	3257	49	134	9	3080	43	112	6	3176	*27	13	3	319
Vagrancy	4	12	0	9	1	12	1	6		5	0	6	3	0	0	4	0	1	0	12
Runaways	0	42	0	17	0	46	1	45	0	44	0	36	0	41	1	34	0	44	0	21
Curfew Violation	2	16	0	85	0	11	1	56	0	31	0	60	0	14	0	75	0	26	2	91
All Other Except Traffic	1	188	8	299	0	144	6	338	0	222	9	354	0	164	17	336	0	123	11	374
Protective Custody	—				—				—				—				18	116	5	2940
TOTALS	149	823	41	3921	99	652	46	4180	109	863	53	4028	115	738	105	4200	142	764	55	4534

*In 1973, due to the passage of the State Detoxification Act, drunkenness is no longer considered a crime and, therefore, will be treated as a separate category under Protective Custody.

SOURCE: Annual Reports - Farmington Police Department 1969, 1970, 1971, 1972 and 1973. Farmington, New Mexico.

These data indicate that there is a disproportionate number of arrests among Native Americans in Farmington, especially for alcohol-related offenses.

Protective Custody -
Pursuant to the New Mexico Detoxification Act [NMSA §46 (14)(1) et seq., (1973)] which went into effect in June of 1973, individuals who are intoxicated are no longer arrested but are detained until they are sufficiently sober to care for themselves.

A study was undertaken of the detentions or protective custody cases handled by the Farmington Police Department during the first 1-year period the act was in effect (June 1973 - June 1974). Since these are not arrests, the information had to be obtained from the individual booking sheets that are prepared for each protective custody case by the booking officer at the Farmington city jail. These forms include the name, age, race, and other characteristics of the person taken into custody. This information was provided to Commission staff by the Farmington Police Department.

Figure 1 on the following page describes the distribution of protective custody by month for a period ranging from June 1973 to June 1974. During this period there was a total of 3,892 protective custody cases handled by the Farmington Police Department. The average number of cases over a 12-month period were 299 protective cases per month. The range of cases was from a low of 85 in June 1973 (the first month the Detoxification Act went into effect) to a high of 484 in February of 1974. Overall, Native Americans accounted for approximately 85 percent of all those taken into protective custody during that period.

Protective Custody: Recidivism Rates
According to the information obtained from the Farmington Police Department, there is a high rate of recidivism among Native Americans confined for protective custody. Table 4 shows the number and percentage of protective custody repeaters by race and sex for a period ranging from June 1973 to June 1974.

Figure 2 on page 165 describes the percentage distribution of the number of times Native Americans were taken into protective custody from June 1973 to June 1974.

Approximately 94 percent of all repeaters are of Indian origin. Nearly 40 percent of the repeaters have been confined at least twice while almost 5 percent have been detained in excess of 20 times.

Protective Custody: Age Distribution of Repeaters
The greatest number of repeaters are within the 20-30 year age range. By far the vast majority of these individuals are Native

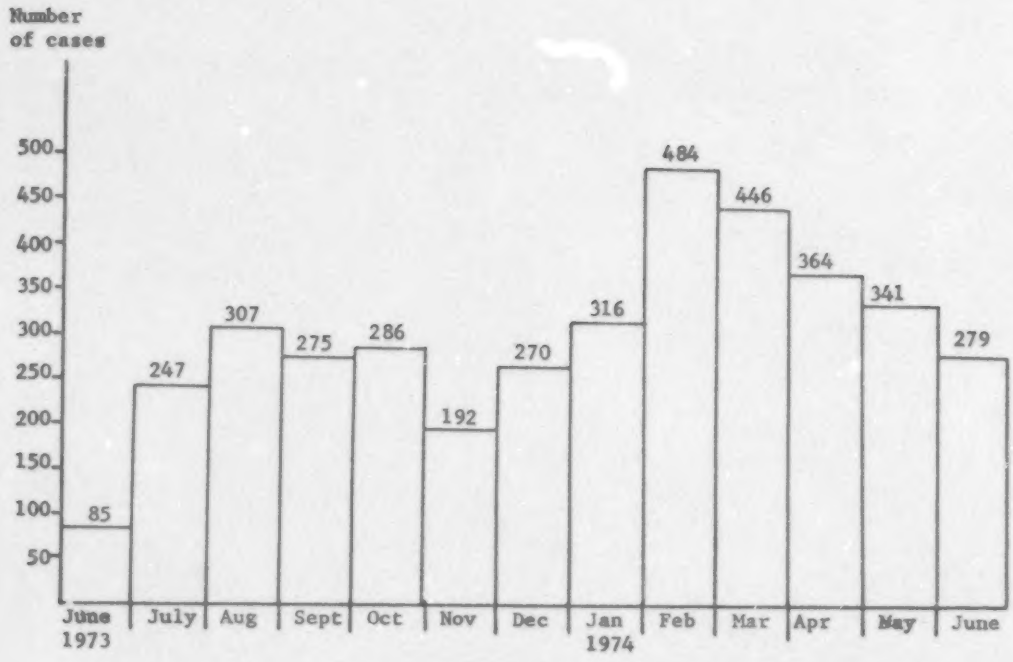

FIGURE 1

Percentage of Protective Custody Cases Per Month
for Native Americans
June 1973 - June 1974
Farmington Police Department

Americans. The next highest age group is the 31-40 year group. After that age group, the cases taper off until we reach the 51 plus age group. In this group, 81 cases were reported, 71 of these are Native Americans. These data indicate that the alcohol abuse problem among Native Americans in the Farmington area is not limited to any one generation; but, rather the cases are fairly well dispersed throughout all age groups.

Figures 3 and 4 describe the distribution of protective custody cases by age group. Figure 3 shows the distribution by race and age group, and Figure 4 describes the overall age distribution for those taken into protective custody.

TABLE 4

Protective Custody Repeaters
By Race and Sex
June 1973 - June 1974

TIMES ARRESTED	2	3	4	5	6	7	8	9	10	11-15	16-20	21+
Male Indian	161	64	41	37	25	16	10	11	7	21	11	21
Male White	9	1	2	1	2	0	0	0	0	0	0	0
Male Spanish American	7	2	0	0	1	1	0	0	0	0	0	0
Male Total	177	67	43	38	28	17	10	11	7	21	11	21
Female Indian	26	13	8	6	5	1	3	0	2	3	0	2
Female White	1	0	0	0	0	0	0	0	0	0	0	0
Female Spanish American	1	0	0	0	0	0	0	0	0	0	0	0
Female Total	28	13	8	6	5	1	3	0	2	3	0	2
TOTAL	205	80	51	44	33	18	13	11	9	24	11	23
% OF TOTAL	39.3%	15.3%	9.8%	8.4%	6.3%	3.5%	2.5%	2.1%	1.7%	4.6%	2.1%	4.8%

SOURCE: Farmington Police Department, Police Ledger 6/73 - 6/74 Farmington, New Mexico

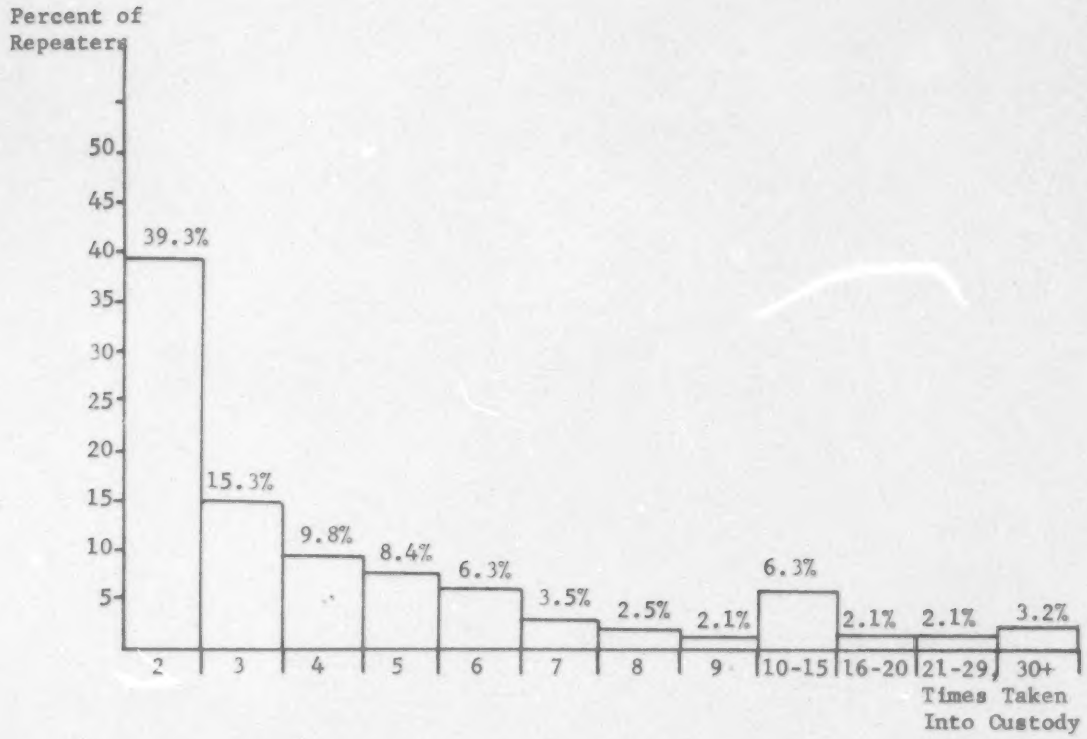

FIGURE 2

Percent Distribution of Native Americans
Taken into Protective Custody
June 1973 - June 1974
Farmington Police Department

Conclusions

Based on the information obtained by Commission staff, there are strong indications that Native Americans in Farmington and San Juan County are arrested more frequently than any other racial/ethnic group although they comprise only a relatively small portion of the total population in Farmington and in the non-reservation areas of the county. It is also evident that alcohol-related offenses are the most common offense category among Native Americans in the area. Additionally, the rate of recidivism among those Native Americans taken into protective custody is extremely high. Finally, evidence suggests that Native Americans are more likely to receive higher fines and longer sentences than any other racial/ethnic group in Farmington.

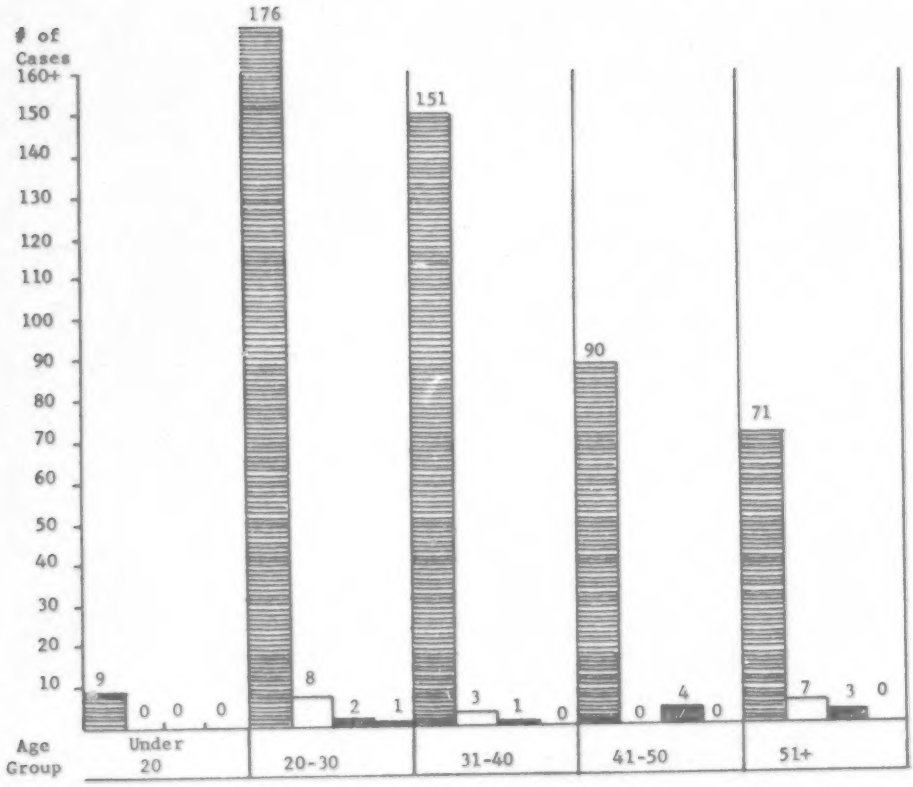

FIGURE 3

Repetitive Protective Custody Within Each
Age Group by Ethnic/Racial Group
June 1973 - June 1974

Navajo
White
Spanish American
Black

SOURCE: City of Farmington, Farmington Police Department, Police Ledger, 1973-1974.

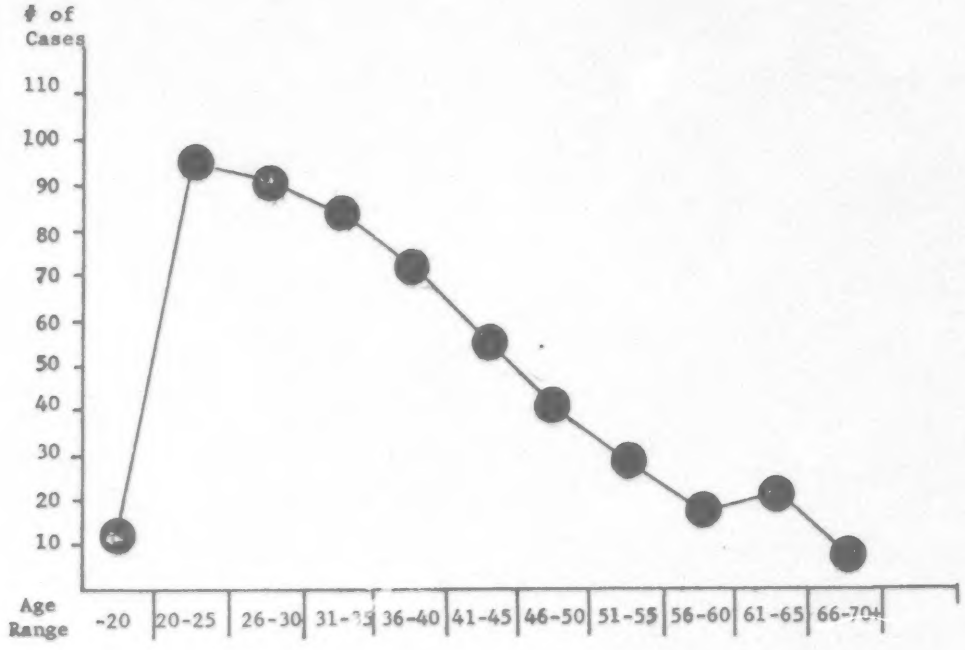

FIGURE 4

Protective Custody Cases
Within Each Age Range
June 1973 - June 1974

SOURCE: City of Farmington, Farmington Police Department, Police Ledger, 1973-1974

APPENDIX B

Response from Tansey, Rosebrough, Roberts and Gerding, P.C., Attorneys, Farmington, New Mexico, regarding possible defamatory material concerning Harry's Lounge, Farmington, New Mexico.

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CHARLES N. TANSEY
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RICHARD L. GERDING
R. THOMAS DAILEY

April 3, 1975

United States Commission on Civil Rights
Southwestern Regional Office
New Moore Building, Room 231
106 Broadway
San Antonio, Texas 78205

RE: Harry's Lounge
710 West Broadway
Farmington, New Mexico

Attention Mr. J. Richard Avena
Regional Director

Dear Mr. Avena:

This office represents Harry's Lounge, 710 West Broadway in Farmington, New Mexico, and this letter is written to you in reply to yours of March 20, 1975, addressed to Mr. Harry Allen of Harry's Lounge.

After reviewing the enclosures with your letter of March 20, 1975, on behalf my client, Harry's Lounge, I have been requested to respond as follows:

1. Harry's Lounge does not engage in nor permit any discriminatory actions whatsoever by its employees in their relations with customers of the lounge. No one is denied service in the lounge because of race, creed or color.

2. Harry's Lounge does not discriminate with regard to its employees. At the present time, the Lounge employs two Blacks, three Spanish-Americans, four Navajo Indians, and five Anglos.

3. Harry's Lounge also employs several persons to generally assist in policing the premises, checking I.D. cards, observing the demeanor and condition of customers in an effort to fully comply with all municipal and state laws and regulations.

4. Harry's Lounge apparently has absolutely no control over any arrests that may be made by the Farmington Police Department

occurring near its premises.

5. Employees of Harry's Lounge are instructed not to sell alcoholic beverages to persons obviously inebriated and under the influence of alcohol since such sales are in violation of state law.

6. Officials of Harry's Lounge have, on numerous occasions, individually, as well as through this office as its legal counsel, requested and offered its full cooperation with city officials in assuring that its business is always operated legally. Harry's Lounge officials have continuously offered their full cooperation with city officials in any way that such officials felt rules or regulations could be enacted by Harry's Lounge to further improve the type of business it was operating and that would result in a reduction in arrests by the city of any person or persons who may have frequented the lounge.

7. One of the major problems of Harry's Lounge is contending with the use by persons under 21 years of age of fake I.D. cards. When such illegal use is discovered, it is the policy of Harry's Lounge to notify the city police department immediately. It is the opinion of officials of Harry's Lounge that this problem could be alleviated to a greater extent through a more closely working arrangement and cooperation between, not only Harry's Lounge, but other lounges in the area and the Farmington Police Department. The majority of fake I.D. card use discovered by officials of Harry's Lounge appear to involve Navajo Indian persons under the age of 21 years.

8. Officials of Harry's Lounge agree with the testimony of Director Carlos Jaramillo of the New Mexico Alcoholic Beverage Control office that alcoholic beverage drinking problems with which Harry's Lounge and other liquor license operators in the Farmington area are confronted, are social problems rather than problems involving public nuisances. These problems have existed in the Farmington area for many years and will undoubtedly continue to exist in the future.

9. Harry's Lounge has, in the past, and hereby continues to offer in the future, to cooperate with municipal, state and federal authorities in any way whatsoever to attempt to resolve social problems brought about within the community resulting from sale

and use of alcoholic beverages.

Respectfully submitted,

TANSEY, ROSEBROUGH, ROBERTS
& GERDING, P.C.

By Austin E. Roberts
Austin E. Roberts
Attorneys for Harry's Lounge

ÆR:sj

cc to Harry's Lounge
710 West Broadway
Farmington, New Mexico 87401

*U.S. GOVERNMENT PRINTING OFFICE:1975 630-618/425 1-3